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# Senate

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Listen to this remarkable promise from the Prophet Isaiah:

*Then you shall call and the Lord will answer; you shall cry, and he will say, ''Here I am.''*—Isaiah 58:9.

Let us pray.

Almighty God, You also said through the Prophet Isaiah that when we call, You will answer and while we are speaking You will hear—Isaiah 65:24. We thank You that prayer begins with You. It originates in Your heart, sweeps into our hearts, and gives us the boldness to ask what You desire to give.

Today, may constant conversation with You hone the desires of our hearts until they are Your desires for us and for our work together. Then, dear Father, grant us the desires of our hearts. May our human understanding be surpassed by Your gift of supernatural knowledge, our inadequate judgment with Your omniscient wisdom, and our limited expectations with Your propitious plans for us. We yield our minds, hearts, wills, and imaginations to be channels for the flow of Your divine guidance.

Bless the Senators in the decisions they must make and the votes they will cast. Give them, and all of us who work with them, Your strength to endure and Your courage to triumph in things great and small that we attempt for the good of all. In Your holy name. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

## SCHEDULE

Mr. THOMAS. Mr. President, on behalf of the majority leader, today the Senate will be in a period of morning business until the hour of 12:30 p.m., with Senators to speak up to 5 minutes each, with the exception of three Senators. Under a previous consent agreement, from 12:30 until 2:15 p.m. the Senate will be in recess to allow the weekly policy luncheons to meet. At 2:30 today, it is the hope of the majority that the Senate will be able to discharge from the Labor Committee and begin consideration of S. 419, the Birth Defects Prevention Act. This legislation is not controversial. It is hoped that the Senate will be able to consider and pass this important bill in a short period of time. Senators can therefore expect rollcall votes during today's session of the Senate. As always, Members will be notified accordingly as any votes are ordered with respect to any legislation or executive matters cleared for action.

I thank the Members for their attention.

## MEASURES PLACED ON CALENDAR—H.R. 1000, H.R. 908

Mr. THOMAS. I understand there are two bills, Mr. President, due for their second reading, and I would ask that they be read consecutively.

The PRESIDENT pro tempore. The clerk will read the bills for the second time.

The assistant legislative clerk read as follows.

A bill (H.R. 1000) to require States to establish a system to prevent prisoners from being considered part of any household for purposes of determining eligibility of the household for food stamp benefits.

A bill (H.R. 908) to establish a Commission on Structural Alternatives for the Federal Courts of Appeals.

Mr. THOMAS. Mr. President, I object to further proceeding on either of these bills at this time.

The PRESIDENT pro tempore. The bills will be placed on the calendar under general orders.

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. THOMAS assumed the chair.)

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

## DISASTER RELIEF BILL

Mr. DORGAN. Mr. President, those who are watching the activities of the Congress now understand that the Congress, after some delay, passed a disaster bill to provide disaster relief to victims, especially the victims of the blizzards and the floods in South Dakota, North Dakota, and Minnesota, but to provide disaster relief on a much broader scale to those who have been victims of disaster in many States around the country.

The Congress did something different this time on disaster relief. In this circumstance, on this disaster relief bill, which is called a supplemental appropriations bill, the Congress decided to attach some very controversial provisions that don't have any relationship to the bill, that are totally extraneous, unrelated to the disaster bill. They attached these provisions that weeks ago the President said he would not accept.

The result was the disaster bill became a political vehicle asking flood victims and disaster victims to wait: ''Hold on over there, we're going to have a political exercise on the disaster bill.'' And, in fact, this weekend, following the passage of the disaster bill by the Congress last Thursday night, instead of sending the disaster bill to the President then, this weekend it was held over in the House of

Representatives, and then the Republican National Committee went on paid radio ads in North Dakota, for example, to make a political issue of this so that the bill could be sent down to the President on Monday, so that they would hope the President would pay a political price for vetoing the bill.

I don't care about one or the other. I don't care about this side, that side, your side or my side. What I care about are disaster victims, and disaster bills ought not be the product of political games. In any event, I ask those who would construct a political strategy on the disaster bill, how on Earth could you construct a strategy by which everybody loses? What kind of a political game is that, a game in which you have constructed an approach so that everyone loses, most especially, the losers are the victims of a disaster? Thousands of them this morning who woke up not in their own homes, because their homes are destroyed, but woke up in neighbors' homes, in a neighboring city, relatives' homes, a shelter, a tent, a camper trailer. That is where they are living. They are the first victims of a strategy that plays politics with disaster relief, but there are others.

The other losers are all the folks in the political system. There are no winners here, only losers, and the biggest losers are those who can least afford it: victims of this disaster.

I intend, in just a moment, to ask unanimous consent to call up a bill that I introduced in the Senate yesterday. It is identical to the bill that Congress passed providing disaster relief, except for two things. It takes out the two major controversial provisions to which the President objects. I say, by doing this, let's pass a clean disaster bill, pass it now, get it to the President, get it signed and get disaster relief to the victims who so desperately need it.

Mr. DURBIN. Will the Senator yield?

Mr. DORGAN. I will be happy to yield for a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me say to my colleague, I can, as said by the President, feel your pain here, because in 1993, my congressional district was inundated in a Midwestern flood.

There are many natural disasters which can befall America and a family. One of the most insidious is a flood. It just never goes away. Some disasters strike quickly, with a tornado or an earthquake or fire, and by the next day, people are starting to reassemble their lives and clean up the mess and put it behind them. A flood lingers, and as it lingers, I have watched family after family in my district reach a level of depression, then desperation. About the only thing that sustains them is not only all of the good neighbors and volunteers who come to their assistance, but the belief that this Nation stands behind them; that, as a family, America says, ''We will come to your aid, too. We will assist you.''

It is interesting to me that during the course of our history, time and time again, without exception, we have said we are going to waive the rules, we are going to drop the politics, we are just going to focus on helping people. We aren't going to ask them whether they are rich or poor, Democrat or Republican, Independent; it doesn't make any difference. They are Americans, they are neighbors, they are in need.

Let us get on with the business of being a nation of people who care about those in need. Why then are we going through this exercise? Why haven't we passed the disaster bill to help the victims of the flood in North Dakota and South Dakota and Minnesota, and other places? Unfortunately, it is because some of the leaders here believe that this is the kind of bill that puts pressure on the President. Send him a bill that he has to sign, like a disaster bill, and then like a Christmas tree, put on these ornaments, little things totally unrelated to disasters. ''Let's send this to him and, boy, we'll force his hand. No President is going to veto a disaster bill with homeless people. We will force him. We will put a provision in there that says we are going to violate the budget agreement, we are going to set up a new standard here for funding agencies.''

What does that have to do with disaster assistance? If you were out of your home, if you had seen all of your Earthly belongings inundated with a flood, if you and your kids were huddled in some shelter, would you really want the Congress of the United States of America to get involved in this kind of political gamesmanship?

Even worse, there is a provision in this bill that relates to the taking of the census. Boy, there's a real timely emergency; we better get on this one. Shoot, take a look, it is only 36 months from now that we are going to have to deal with it; 36 months away we are supposed to take the census. The Republican leadership said, ''Let's put a provision in this bill that will force the hand of the Federal Government when it comes to taking the census.''

This is sad. This is really sad for so many people who have been victimized by this flood to now be victimized by politics on Capitol Hill. And it is outrageous. Senator DORGAN is correct, let us not violate the standard which we have established which says when there is a disaster and a need in America, we will rally behind the victims, our neighbors, our fellow Americans regardless of party label, regardless of agenda.

We are losing it in this debate because the Republican leadership insists on amendments to this bill which have nothing to do—nothing to do—with disaster victims.

I salute my colleague for his efforts. I tell you, I have been there, and I know what it means to go home weekend after weekend and see these families struggling, looking at homes that have been inundated with floodwater and mud, everything in their life washed away—the wedding pictures, everything, it's gone—and then to have to tell them, ''I'm sorry, another week has gone by and Congress has not met its responsibility.''

I salute my colleagues. Let us hope that just for one brief shining moment that this body will rise above politics and support your effort to bring a clean disaster bill to the table, pass it today, pass it in the House, move it on to the President and get it signed this evening. We can then say to the people huddled in those shelters worried about their future and what they have been through that we have met our responsibility. I thank the Senator.

Mr. DORGAN. Let me make two additional points——

The PRESIDING OFFICER. The Senator from North Dakota has 2 minutes, 15 seconds remaining.

Mr. DORGAN. Let me make two additional points before I propound the unanimous-consent request. I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, let me read an editorial from this morning's Fargo Forum, North Dakota's largest newspaper in the Red River Valley. It is, in most cases, a conservative voice. Here is what they say about what is going on, how they observe what is going on in Congress:

> The result [of all of this] is to aggravate the tragedy of the flood by extending uncertainty about relief. Last week, community leaders from Grand Forks and East Grand Forks, Minnesota—many of them longtime, loyal Republicans—urged Congress to quit fooling around with the lives of flood victims. Clean up the disaster bill, they said, so the president can sign it.
>
> Their words were ignored. Instead, Republican congressional leaders and the two governors tried to shift the blame for delays on the president. In a callous display of partisan arrogance, they said his veto would be the delay, not the amendments.
>
> It won't fly here in the Red River Valley—

The Fargo Forum says—

> where people are trying to put their homes, businesses and lives back together.
>
> The president made it clear weeks ago: Unless the disaster aid bill was clean, he would veto it. Nevertheless, Republican leaders fouled up the legislation with unrelated riders, knowing the president's veto was certain. So instead of considering the crucial needs of valley flood victims, they opted for a purely partisan agenda. The onus is on them.
>
> Apologists for the GOP leadership insists adding unrelated matters to popular bills is routine. Maybe so.
>
> But the flood of this century in the valley is not routine. A disaster of such magnitude is not routine. The pain and destruction are not routine. The short construction season for rebuilding is not routine. Surely, the least flood victims can expect is for Congress to put aside its routine nonsense when circumstances are this extraordinary.

This from the Fargo Forum, not a liberal newspaper, normally speaking for conservatives.

Finally, this point. There are those here who say it doesn't matter that we

have messed around with this bill because there is money in the pipeline; no one is being disadvantaged. I heard them spin that yarn for weeks.

We kid people in our part of the country about whoppers. You know the whoppers: Yes, I won this belt buckle in a rodeo riding bulls; my pickup truck's paid for. Now I heard this other whopper: There's money in the pipeline. Tell that to the folks in Grand Forks.

There is a woman living in a tent right now in Grand Forks with her family. There was a woman in the newspaper yesterday, she and her family are out of work and have been out of their home for 5 weeks living in a camper trailer, and they don't know when they are going to get back to their home and she doesn't know when she will have another job. Tell it to them, that there is money in the pipeline.

Better yet, get on a plane and go out there and try to live on that money in the pipeline. The money doesn't exist except in this bill, and the bill must get passed and must be a clean bill so this aid goes to disaster victims, and it ought to be done now. It can be done simply. I introduced a bill yesterday, and I will call it up now by unanimous consent, and if there is objection, it means the Congress will not allow a clean disaster bill to pass. If not now, when?

Let me call up a clean disaster bill where we take out the census issue and the Government shutdown issue and send this bill, as it was written by the Congress, to the President for signature.

Mr. President, I ask unanimous consent to proceed to Calendar No. 18, H.R. 581, and that all after the enacting clause be stricken and the text of S. 851, the clean disaster bill, be substituted in lieu thereof; that the bill be read a third time and passed; and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. THOMAS. There is an objection. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THOMAS. Mr. President, the Senators both know there are negotiations going on now. This performance on the floor does not help at all. Our leaders are talking to your leaders. They are working toward doing it. As a matter of fact, if you want to carry on this thing, there may be some time where you can do it this evening. The fact is, this is not the way to solve the issue. The leaders are meeting, and I object to the request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand under a previous order that I have 30 minutes under my control at this time.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I thank the Chair.

Mr. President, first, I rise on another topic, but I want to say to the Senator from North Dakota that I fully empathize and sympathize with him on his position. The flood about which my colleague from Illinois spoke a few minutes ago is the same flood that devastated Iowa in 1993. This Congress and the President came to the assistance of the people of Iowa in a very rapid measure. To this day, the people of Iowa talk about how rapidly the funds got out there, the Government was there to help. And the same thing should apply to any disaster anywhere. And it should apply in North Dakota also.

I want to say to my colleague from North Dakota, he is right on the mark. This legislation ought to get through. The money ought to be sent out without all these other political ramifications. So I appreciate the Senator from North Dakota. Again, his position is the correct one. We ought to get the money through here. And we should not be loading it down with political considerations.

## THE COMPREHENSIVE TEST BAN TREATY AND THE 34TH ANNIVERSARY OF PRESIDENT KENNEDY'S CALL FOR THE VIGOROUS PURSUIT OF PEACE

Mr. HARKIN. Mr. President, I take the floor today with a couple of my colleagues to note a very important anniversary.

Mr. President, 34 years ago today, on June 10, 1963, President John F. Kennedy delivered a historic address at American University here in Washington, DC, regarding the need for the vigorous pursuit of peace. He declared that the United States has a critical interest in limiting the testing of nuclear weapons. We wanted to mark that occasion today by talking about the need to continue that progress and to bring to completion President Kennedy's dream and goal of the Comprehensive Test Ban Treaty.

I yield at this time to my colleague from Illinois for his unanimous-consent request and for any comments he wants to make.

I reserve the balance of my time.

The PRESIDING OFFICER. Is there objection? The Senator from Illinois.

Mr. DURBIN. Thank you Mr. President.

### PRIVILEGE OF THE FLOOR

I ask unanimous consent that privileges of the floor be granted to the following members of my staff, Thomas Faletti and Robin Gaul during the pendency of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I want to thank my colleague from Iowa, Senator HARKIN, for reminding us of this important and historic anniversary. President John Kennedy's speech to American University in 1963, really I think demonstrated a vision of the future which no one believed at the time was really within our reach. We expect leaders in America to challenge us, to think ahead, and to think of a different world, a better world. Certainly President Kennedy did that at American University.

In the midst of the cold war, when it was starting to heat up with nuclear missiles being built at great expense in the Soviet Union and the United States, President Kennedy challenged the United States to think of the vision of a world that was a world of peace, a world where the leaders in countries like the United States and Russia would be focusing their resources on good and positive things rather than weapons of mass destruction.

We have tried through the Comprehensive Test Ban Treaty to reach a milestone on the road to the total abolition of nuclear weapons. This treaty prohibits all nuclear weapons test explosions or other nuclear explosions anywhere in the world.

It is verifiable. We have a global network of monitoring facilities and on-site inspections to make sure that each country lives up to its terms.

President Bush, obviously a Republican leader, initiated a test moratorium in October 1992. President Clinton continued it, and then signed the Comprehensive Test Ban Treaty last year, along with 125 other world leaders. It has been endorsed by the United Nations. Now it must be ratified by the United States. The Senate must put its approval on this notion that we are going to eliminate nuclear weapons testing as part of a global plan to bring real peace to this world. Forty-three other nuclear-capable countries must face that same responsibility.

Why should we do this at this point in our history? Are we not making enough progress? Do we really need this? I think the answers to these questions demonstrate why we are here on the floor speaking to this issue. The Comprehensive Test Ban Treaty would curb nuclear weapons proliferation worldwide.

What does it mean? Not just those nations currently in possession of nuclear weapons, but those that dream—unfortunately dream—of being nuclear powers, they would be held back, too. Our monitoring devices in the test ban treaty will be at least a discouragement, if not a prohibition against their own nuclear testing to become nuclear powers, to join in some nuclear arms race at a new level different from the cold war.

There is another aspect of this that is so troubling. Fully $1 out of every $3 we spend each year now in the United States on what we call the nuclear weapons program is money spent to clean up the mess, the environmental degradation that is left over from our nuclear program. If we stopped the testing and put a halt to the construction of these weapons, we are going to

protect our environment, and future generations will certainly be happy to hear that. It saves taxpayer money. And, it is supported by a majority of Americans. In fact, over 80 percent of the American people think it is time for us to do this.

The U.S. nuclear arsenal has consumed about a quarter to a third of all of our defense spending since World War II. I will not recount all the dollars involved; and I am sure my colleagues will during the course of this debate. But, we have put ample resources in this program. We must be reminded over and over again of the words of President Dwight Eisenhower, no dove, our leader in World War II, who stood up and reminded us that every dollar spent on weaponry, every dollar spent in this case on nuclear weaponry, is a dollar not spent on the education of a child, on nutrition for a child at risk. These are things which should be constant reminders of the need to resume this debate.

Despite the end of the cold war and the collapse of the Soviet Union, the United States currently spends at least $33 billion a year on nuclear weapons and weapons-related activity—about 13 percent of our defense budget. These costs continue even though no new warheads or bombs have been built since July 1990.

Nuclear weapons testing has stopped since September 1992. And the size of the nuclear stockpile, because of negotiations, has gone down dramatically; yet, still $33 billion a year right up on the cash register out of the taxpayers' pockets into a nuclear program. And for what? Unfortunately, a third of it, as I said, is used for environmental cleanup. And that should be done. But so much more is being used to maintain and upgrade existing weapons and retain the capability to produce new ones.

Let us realize the vision of President Kennedy, a vision which 34 years ago challenged Americans to think beyond the current cold war in those days to the future, to a future free of nuclear weapons to a more peaceful world.

I am happy to join with my colleague from Iowa, Senator HARKIN, on the floor. And I thank him for reminding us of a commitment made of a vision expressed 34 years ago. It is time for this test ban treaty to be ratified by the United States for a safer world, for ourselves and our children.

I yield back to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank my colleague from Illinois for his very eloquent remarks and for reminding us of just how much we are spending. Even yet today, to maintain this nuclear stockpile, the United States spends roughly $30 billion a year. That is just about three times the amount that we are spending on all medical research at the National Institutes of Health, to find the causes and cures of things like heart disease, cancer, and Alzheimer's, diabetes, Parkinson's disease. Three times what we are spending on this arsenal than all medical research. We are trying to come up with money for NIH.

We had a sense-of-the-Senate resolution last week—98 to 0—to support a doubling of funding for NIH. That would bring it up to about $25 billion a year, not even up to this level. Yet we do not have the money to even get about a 4 or 5 percent increase at NIH.

I thank the Senator from Illinois for his eloquent comments.

I want to also yield to the Senator from Rhode Island for his comments on this topic and thank him for being involved in this discussion on the floor of the Senate. This is an important anniversary. It must be noted. And we must mark it as hopefully the last anniversary in this long journey to get a Comprehensive Test Ban Treaty.

I just say to my friend from Rhode Island and my friend from Illinois, that President Kennedy during that famous speech, 34 years ago today, at American University, called for an end to nuclear testing, and then proceeded to negotiate with the then-Soviet Union and others for a ban on atmospheric testing. Four months later this Senate ratified a ban on all atmospheric testing—4 months. And then here we have been 34 years to get to a comprehensive test ban.

So if they could do that in 4 months, I would think now, certainly before the end of this year, we could bring this to a closure.

I yield to my friend and my colleague from Rhode Island.

Mr. REED. I thank the Senator for yielding. I commend him for his leadership on this important issue. And I also want to commend my colleague from Illinois for his very eloquent statement on this very important topic.

I join my colleagues today in urging the administration to submit the Comprehensive Test Ban Treaty to the Senate for its consideration and, hopefully, ratification. On this day in 1963, President John F. Kennedy delivered his famous address to the graduates of American University. He made his famous call for peace for all time. He was then searching for a solution to a tense nuclear standoff. He stated in that speech:

> Today the expenditure of billions of dollars every year on weapons acquired for the purpose of making sure we never need to use them is essential to keeping the peace. But surely the acquisition of such idle stockpiles—which can only destroy and never create—is not the only, much less the most efficient means of assuring peace.

Mr. President, today we have an alternative means of assuring peace. After years of negotiations and false starts, 60 countries have approved the text of the Comprehensive Test Ban Treaty which would prohibit all nuclear weapons test explosions or other nuclear explosions anywhere in the world.

This treaty would prevent deployment and impede the development of these deadly weapons. It would not enter into force however until ratified by all 44 states which possess nuclear power, including the five countries which have harnessed this power to make nuclear weapons. Its comprehensiveness would reassure the 177 nonnuclear weapons states that nuclear proliferation is waning, thus eliminating the need of these states to develop their nuclear capability.

The Comprehensive Test Ban Treaty clearly has one purpose: To end the arms race and prevent the proliferation of weapons of mass destruction. It seeks to accomplish its goal in an objective and fair manner.

The membership of the executive council, the treaty's principal decisionmaking body, will be distributed evenly throughout the world.

An international monitoring system will use scientific methods to detect and identify prohibited nuclear explosions. A network of seismic, hydroacoustic, and radionuclide monitoring stations will continuously collect and analyze data to ensure global compliance.

A consultation and clarification regime will provide state parties with the opportunity to address accusations of noncompliance before an onsite inspection is ordered. And any state party which demands a frivolous or abusive inspection may be subject to punitive measures.

How can the United States not take the lead in this cause? If we ratify this treaty, others will follow. Imagine a day when world peace is not decided by the size of nuclear stockpiles, but rather by the will and wishes of the people of the world. This treaty is the next step toward that reality.

Mr. President, in his book of several years ago, ''The Good War,'' author Studs Terkel presented an oral history of those touched by World War II. He spoke with many individuals whose lives were shaped by the bomb. Indeed, he spoke with survivors of Hiroshima, who still do not talk about the events of August 6, 1945, without breaking down.

He spoke with an American sailor who swam in the waters of the Marshall Islands the day after a test explosion. He died of cancer before the book was published.

But perhaps Terkel's most disturbing chapter is his last, when he interviewed some children, aged 11 to 15, on a Chicago street corner in 1965.

One child, Sam, stated, ''I hope I can die of old age, before the world starts THE war.'' Ethel then chimed in, ''I wanna see if I'm gonna grow up first. I mean, I might not live to be grown up. Cause I don't know when my time is up * * * I never know if I could die overnight from the bomb or something.'' And finally Raymond said, ''This might sound crazy, but I'd like to see a world without bombs. I mean without wars. It would be a lot bigger, the world. Maybe we could enjoy it more. Get a lot out of life, without worrying you would be blown up tomorrow.''

Mr. President, generations growing up after World War II were haunted by the specter of annihilation by nuclear weapons. We now have an opportunity to rid these fears, the fears of our children, forever. The American people want this treaty. Over 80 percent of the public support its ratification. It is incumbent upon us to consider this treaty and to ratify it, to put to rest once and for all the specter of nuclear annihilation.

I yield back my time to the Senator from Iowa.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Iowa.

Mr. HARKIN. I thank my colleague.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. HARKIN. I thank the Chair.

I thank my colleague from Rhode Island again for continuing to be involved in this discussion, for his leadership in the House and now in the Senate on the total issue of arms control and especially on the issue of the test ban treaty.

Mr. President, let me continue for a little bit to talk some more about the aspects of this treaty and why it is so important that we ratify it this year.

Again, to recap, 34 years ago today, on June 10, 1963, President Kennedy made a historic speech at American University here in Washington, DC. He talked about the need for a test ban treaty to limit the number of nuclear weapons tests. Four months after that, President Kennedy negotiated with the Soviet Union, signed and secured ratification from the United States Senate for the limited test ban treaty that banned all atmospheric tests of nuclear weapons. So, since October 1963, the two nations have had no atmospheric tests of nuclear weapons.

But President Kennedy's goal was not just atmospheric tests. His goal was to ban all nuclear weapons tests. As President Kennedy said on June 10, a comprehensive test ban treaty ''would check the spiraling arms race in one of its most dangerous areas. It would place the nuclear powers in a position to deal more effectively with one of the greatest hazards * * * the further spread of nuclear arms. It would increase our security; it would decrease the prospects of war.'' That is a quote from President Kennedy's speech at American University 34 years ago.

Mr. President, completion of a global nuclear test ban treaty negotiations has been a central nuclear arms control objective for more than 40 years. This long-awaited goal was finally won just last September, September 24, 1996, when the United States and other countries signed the Comprehensive Test Ban Treaty, the CTBT as it is called, a treaty consistently supported by more than 80 percent of the American public.

Now, we in the Senate must ensure that the Comprehensive Test Ban Treaty is ratified here in the Senate and by 43 other nuclear-capable countries so that it formally enters into force.

The Comprehensive Test Ban Treaty is a major milestone in the effort to prevent the proliferation of nuclear weapons. It would establish a permanent ban on all nuclear explosions in all environments for any purpose. It's zero-yield prohibition on nuclear tests would help to halt the development and deployment of new nuclear weapons. The treaty would also establish a far-reaching verification program that includes a global network of sophisticated seismic, hydro-acoustic, radionuclide monitoring stations, as well as on-site inspection of test sites to deter and detect violations.

I might just add here, Mr. President, one of the important reasons for getting this treaty ratified as soon as possible is that under this regime, newly emerging nations that may be wanting to develop a nuclear weapon will find it thousands of times more difficult to do so. I will not put myself in a position of saying it will be absolutely impossible, nothing is 100 percent perfect, but many of these smaller nations that may want to have a nuclear weapon are going to need a small nuclear weapon. They will need some of the latest technology in order to have it delivered in a vehicle that they have in their possession or that they might soon acquire. To do that would require testing. If they cannot do the testing, then they cannot acquire the latest technology in nuclear weapon design and construction.

Mr. President, in 1991, the Soviet Union announced a unilateral nuclear weapons test moratorium. In 1992, the House and Senate passed legislation establishing a 9-month U.S. moratorium with restrictions on the number and purpose of any further U.S. tests and a prohibition on U.S. tests after September 30, 1996, unless another nation conducts a test.

In 1993, President Clinton, with advice from the armed services, the nuclear weapons laboratories, and the Energy Department, determined that the U.S. nuclear arsenal was safe and reliable without further testing. On July 3 of that year, he announced he would extend the test moratorium and agree to begin multilateral test ban negotiations in January of 1994.

The Comprehensive Test Ban Treaty was negotiated over more than 2 years at the 61-nation Conference on Disarmament in Geneva. A key turning point occurred in 1995, when our Nation's leading nuclear weapons scientific advisors concluded that our nuclear weapons stockpile is safe and reliable and that even low-yield weapons tests are unnecessary, even the so-called safety tests intended to guard against defects that could lead to accidental warhead detonations.

Spurred by the independent JASON scientific group's report that the United States nuclear arsenal is safe and reliable without testing, and spurred further by the international outcry when the French resumed nuclear testing after a 3-year hiatus, the United States and France then adopted a zero-yield test ban position in the nuclear weapons test ban talks.

So, by August 1996, the negotiations produced a final nuclear weapons test ban treaty text supported by all countries except one, all countries except India, and India sought to include in the treaty a timetable for eliminating all nuclear weapons and, again, India would find its own nuclear weapons development program limited by a ban on testing. So, to overcome one nation's opposition, Australia proposed—and more than 100 other countries supported—a resolution endorsing the Comprehensive Test Ban Treaty, a zero-yield test ban, which was submitted to the U.N. General Assembly and passed by the overwhelming margin of 158–3 on September 10, 1996.

Now, for the Comprehensive Test Ban Treaty to formally enter into force, it must be ratified by 44 named signatory nations, including the five declared nuclear weapons states and the three undeclared nuclear weapons states—India, Israel, and Pakistan. The U.S. ratification requires, of course, a two-thirds vote by the U.S. Senate. However, until the Comprehensive Test Ban Treaty does enter into force, all signatories, including the United States, are bound by article XVIII of the Vienna Convention on Treaties not to undertake any action that violates the purpose or intent of the treaty. In other words, the signatory nations shall not test nuclear weapons.

That is sort of the recent history. Now, what is the next step? Well, several key steps must now be taken. Before the Comprehensive Test Ban Treaty can be considered by the Senate Foreign Relations Committee and the full Senate, the Clinton administration must submit the articles of ratification and must reach agreement with the Senate leadership to begin formal consideration of the treaty. The treaty must also become a priority for the administration and for the U.S. Senate. The Foreign Relations Committee of the Senate and the Senate in its whole must then proceed with a thorough examination of the treaty and to vote on it. In the end, I believe the Senate will agree that ratification of the treaty is in our country's national security interests just as President Kennedy said 34 years ago today.

The Senator from Illinois mentioned that conservatively we are spending about $30 billion a year now to maintain our nuclear stockpile. I wondered how much we had spent over the intervening years. It turns out that from right after the end of World War II until now, the United States has spent more than $300 billion —that is billion with a ''b''—$300 billion, about a third of a trillion dollars, for nuclear weapons and nuclear weapons materials. That does not include the cost of all the delivery vehicles—that is, all of the missiles, the silos we build, the Minutemans and the Titans—and it does

not include the cost of all the B–52 bombers, the B–47 bombers, the B–2 bombers, and the B–1 bombers. It does not include that. It does not include the cost of all the submarines, all the Polaris and later the Trident submarines. That probably would come to hundreds of billions more. I am talking just about nuclear weapons material alone, and the weapons themselves—$300 billion approximately that we have spent, and now about $30 billion a year. As I mentioned earlier, Mr. President, that is 2½ times what we are spending on all medical research in the National Institutes of Health. We are spending 2½ times every year to maintain the nuclear stockpile than we are spending on all biomedical research through the National Institutes of Health. That is not right, and that is why it is time to conclude the Comprehensive Test Ban Treaty.

President Kennedy said 34 years ago today that the negotiations for a ban on above-ground nuclear tests were in sight, and he implored the Nation and the international community to bring that treaty to a conclusion. As I said, 4 months later, the agreement was reached and the atmospheric test ban treaty became a reality—in just 4 months at the height of the cold war.

The Soviet Union no longer exists. We have relations with Russia, open relations. We visit their military establishments; they visit ours. We now have an agreement where they will be an adviser to NATO. Well, now it is time for us to conclude the Comprehensive Test Ban Treaty. It has been around a long time. Now we are at the point where we can bring it to its final conclusion.

President Clinton must adopt the same attitude that President Kennedy adopted in 1963. He must insist on a quick closure, to make it a top priority of his administration to get the Comprehensive Test Ban Treaty ratified by the Senate this year. It is in our best interests. It would help secure our planet from nuclear threats. It would go a long way toward ensuring that newly emerging nations do not get their hands on the nuclear trigger and would begin the process of getting rid of, over a period of time, the nuclear stockpiles that we have and saving all of that money that we are now spending and, hopefully, putting that money into important endevors such as medical research.

Well, the end is in sight. We soon can have in hand a comprehensive ban on all nuclear weapons tests.

Mr. President, sometimes it boggles the mind to think of how many nuclear tests we have had in the past. Nuclear tests worldwide, underground tests, 1,517, with the United States doing 815, the old Soviet Union doing 496, France doing 160, Britain 24, China 22, and India 1.

Atmospheric testing: 528 atmospheric tests prior to 1963, with the United States doing 215, the Soviet Union doing 219, France doing 50, Britain, 21, and China, 23. Total, all tests: 2,046.

A sad, sad chapter in the history of humankind; a terrible toll that it has taken not only economically from America and other countries by what we have spent, but I think it has taken a terrible toll environmentally.

Much of the money that we spend now through the Department of Energy for our nuclear weapons stockpile is spent on cleaning up the mess that was made, first, through the production of nuclear materials; second, through the refining of these nuclear materials, and the processing; third, through the storage; and, of course, fourth, through the underground testing.

So we are spending today, and we will continue to spend in our lifetimes, billions of dollars just to clean up the mess that has been made.

There is another mess that has been made that we are paying for dearly. All those atmospheric tests that I mentioned—528 of them—each and every one of those produced in the atmosphere large amounts of plutonium and other toxic materials. I have seen estimates that tons of plutonium were released during all of these tests into the atmosphere, in the food chain, and in sea life. The half-life of plutonium is tens of thousands of years. And, yet, we know it is one of the most carcinogenic materials known to mankind. One microscopic piece of plutonium can cause cancer.

Who knows how much plutonium is embedded into the ground and into the soils from the underground tests, how much of that plutonium may find itself to underground aquifers later on in the evolution of our planet?

We are paying a terrible price for this sad chapter of our history. We shouldn't pay the price any longer. Now is the time to end testing once and for all and close the books on it.

I call upon President Clinton to make this a priority of his administration this year. I call upon the majority leader of the Senate and the minority leader of the Senate to make it a priority for the U.S. Senate this year that we debate and vote on the comprehensive test ban treaty. I call upon the chairman and the vice chair of the Senate Foreign Relations Committee, as soon as the President sends this down, to take it up, to investigate it, to debate it fully, and to vote on it and report it to the floor of the Senate.

This must be a priority. We must do it this year. Let's make this 34th anniversary of President Kennedy's speech at American University the last anniversary before we have a completion of what he called a ban on all nuclear testing.

Mr. FEINGOLD. Mr. President, I rise today to join with my friend, the Senator from Iowa [Mr. HARKIN], in marking the anniversary of President John F. Kennedy's historic speech on nuclear disarmament. It was in that speech, given June 10, 1963, at American University, that President Kennedy announced the initiation of negotiations for a comprehensive ban on nuclear tests. I am pleased to see that now, 34 years later, a comprehensive test ban is on the verge of becoming reality.

I am a strong supporter of the Comprehensive Test Ban Treaty [CTBT] as a way to curtail nuclear proliferation. This treaty, once it is ratified by the 44 actual or potential nuclear powers, will ban all nuclear explosions no matter how small. In 1993, I cosponsored legislation that extended our moratorium on nuclear tests and called on the United States to end all testing by the year 1996. That bill passed and the United States' unilateral move to stop testing has shown our commitment to a worldwide ban on nuclear explosions. As we all know, the CTBT won approval in the U.N. General Assembly last September and, just days after the U.N. vote, President Clinton signed the treaty on behalf of the United States. More than 100 other nuclear and nonnuclear states have also signed the CTBT.

Mr. President, the CTBT will act as an essential complement to the nuclear Non-Proliferation Treaty and will help end the threat of nuclear war. By prohibiting nonnuclear states from developing atomic weapons, the Non-Proliferation Treaty has greatly enhanced global security since it was first signed back in 1968. The CTBT, by prohibiting nuclear testing, will provide further assurance that no additional states will develop nuclear weapons. The world will undoubtedly be a safer place once all nuclear explosions, even underground ones, are permanently outlawed.

Since President Kennedy first initiated test ban negotiations, the United States has taken the leading role in ending nuclear testing. We must maintain this momentum. I urge the President to submit the CTBT to the Senate for its advice and consent at the earliest possible date and then I would hope the Foreign Relations Committee would take it up for consideration soon thereafter. The United States should continue its leadership by ratifying the CTBT. We should demonstrate that our commitment to a nuclear test ban is as strong as ever.

Mr. JEFFORDS. Mr. President, it gives me great pleasure to join my colleagues today in marking the 34th anniversary of President Kennedy's historic call for negotiations aimed at reducing the risk of nuclear war.

President Kennedy's June 10, 1963, address at American University marked the beginning of serious international efforts to limit the nuclear arms race and to avert the nightmarish possibility of a nuclear war. His initiative resulted a few months later in the Limited Test Ban Treaty, which brought about the first pause in the nuclear powers' efforts to construct bigger, better, and more nuclear weapons.

It's worth noting that President Kennedy's objectives were more ambitious. He had hoped to enact a comprehensive nuclear test ban, but was unable to win agreement for such a bold step. Now,

more than three decades later, we have an opportunity to realize this objective.

Following several years of negotiations in the U.N. Conference on Disarmament, the Comprehensive Test Ban Treaty [CTBT] was completed and opened for signature in September 1996. Since then, over 140 countries have signed the document, including all five declared nuclear weapons states. For the treaty to enter into force, 44 key signatories, including the United States, must ratify the agreement prior to September 1998.

Mr. President, over the past few years I have had the privilege of participating on a steering committee of a project organized by the Henry L. Stimson Center on Eliminating Weapons of Mass Destruction. The objective of the group, which included such authorities on foreign policy and national security as Gen. Andrew Goodpaster and Ambassador Paul Nitze, was to consider concrete measures the United States could undertake to work toward the long-term goal of a world free of nuclear weapons. In our third and final report, released in March, we laid out several steps President Clinton and Congress can take now to ensure that future generations are safe from the threat posed by weapons of mass destruction. Ratification of the CTBT was one of the three most urgent measures we recommended.

Enactment of a comprehensive test ban would do more to stem proliferation and reduce the nuclear threat than any other action we could take at this time. The details of the CTBT are technical and complex but the effect of the treaty is pure and simple: it would ban all nuclear test explosions. Not only would this constrain the development of more complex weapons but it would also protect our environment.

The United States already has a moratorium in effect on nuclear weapons tests and has not conducted such a test since 1992. It's time to make this moratorium permanent and ensure that others follow suit.

The administration has indicated its intent to present the CTBT to the Senate for advice and consent. However, to date it has not done so. I appreciate that the treaty is likely to be controversial in some quarters and that the Senate has only recently concluded a hotly contested debate on another important arms control treaty, the Chemical Weapons Convention [CWC]. However, one of the problems we faced with the CWC was that it was not brought before the Senate as quickly as it could have been. For that and other reasons, we found ourselves in late April facing a deadline affecting our participation in the treaty.

Let's not put ourselves in that position again. Let's begin the debate on the treaty now so that our decision on ratification—which I fervently hope will be a positive one—can serve as a signal of encouragement to other countries.

Thirty-four years ago today, President Kennedy called on us to pause and consider the effects of a devastating nuclear conflict. He put us on a path to eliminating this threat. Let's honor his memory by fulfilling one of his grandest objectives. Let's act on and ratify the Comprehensive Test Ban Treaty.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

## GREAT OUTDOORS WEEK

Mr. MURKOWSKI. Mr. President, I would like to chat a little bit about recreation in America today and announce that Great Outdoors Week for 1997 began on Monday of this week.

From America's vast forests to her mighty rivers, to her majestic mountains, plains, and valleys, there is the recognition that this Nation is truly blessed with national and natural beauty beyond comparison. As a consequence, it is no wonder that our Nation and our national consciousness are defined in no small part by the great outdoors that we all enjoy.

Coming from my State of Alaska—which is, at least as far as I am concerned, America's premier outdoor State—I have lived near and experienced some of nature's greatest handiwork. I have fished, hunted, sailed, hiked, and camped in probably the best places on Earth.

So it is with great pleasure that I come before my colleagues to announce Great Outdoors Week for 1997.

The recreation community is in Washington this week to host a number of activities to remind those of us inside the beltway that outdoor recreation is a good thing for people, for communities, for the economy, and for conservation. Great Outdoors Week will bring together many people and groups who really care about America's great outdoors. Federal, State, and local officials, recreation enthusiasts, outdoor media, recreation associations, and the recreation industry will all take part in the events scheduled for this week.

I met last night with the Recreation Vehicle Industry Association—the manufacturers and the suppliers of recreation vehicles. There were some 250 to 300 people in the Russell rotunda at a very, very outstanding reception to kick off Great Outdoors Week for 1997.

Mr. President, as on outdoorsman and chairman of the Senate committee with responsibility for our Nation's public lands, I am also going to take an active role in the other events scheduled for this week.

The work of the Committee on Energy and Natural Resources touches the lives of Americans in many ways but few ways more visible than in our oversight of the Nation's great outdoors. Great Outdoors Week really gives us an opportunity to focus on the value of recreation in our lives, and how we can do a better job of encouraging people of all ages to enjoy America's natural and national splendor.

The great outdoors is the main focus of our national recreation initiative. The acronym is REC, and it stands for three goals: reinvigorate, enhance, and conserve.

To reinvigorate and rebuild our national parks, forests, and other Federal lands that provide diverse recreation opportunities.

To enhance the visits Americans make to our public land legacy through improved access, facilities, and services.

To conserve America's natural resources that provide recreation opportunities, particularly through wildlife habitat restoration and protection. It also includes areas in our urban centers with strategies to protect open space, rivers, lakes, and to link parks and trails.

Last year, we passed the largest parks and conservation public lands bill that has passed this body since the 1940's. Containing 119 pieces of legislation, the bill increased park boundaries, designated historical trails and wild and scenic rivers, protected sensitive lands, and benefited virtually every State in this Nation.

It also protected the Presidio in San Francisco, one of the finest recreation areas in our country, by establishing a new management system which takes advantage of private sector expertise, contribution, and finance.

It will also create the National Recreation Lakes Study Commission. This is a nine-member panel which will examine the demand for recreation at federally managed lakes and reservoirs and help develop plans with the private sector to maximize recreational opportunities. A report is due next year, and we may write legislation to increase opportunities in this area.

Thankfully, after I wrote to the President last week, he told me that he will name the remaining four members of the nine-member commission this week so that they can get down to work.

On April 25 of this year, we held a seminar on outdoor recreation trends and benefits.

This Wednesday we will hold an oversight hearing on the stateside program of the Land and Water Conservation Fund. We will hold additional oversight hearings on other aspects of the outdoor recreation capabilities. At least one of them will be a field hearing out West. The committee report, hopefully, will follow.

Putting our heads together, we can decide what the Federal Government

can and should do to reinvigorate, to enhance, and to conserve America's outdoors.

Our national parks—our Nation's crown jewels—are losing some of their luster. We need to ensure that all Americans can enjoy and be proud of our parks system for years to come.

We have at least an $8 billion backlog in unfunded projects and programs.

Yellowstone needs about $300 million in road repairs.

Yosemite needs $178 million in repairs after January's floods.

Each year, another 1 percent of the National Parks Service roads fall from fair to poor or failing.

We are working to leave a legacy everyone can be proud of—a new, reinvigorated, world-class National Park System.

Mr. President, an expanded fee demonstration program, major concession reform, a bonding initiative, and additional private-sector sponsorships are all under consideration in this Congress. Our system of parks includes State and local parks as well. Capital needs of State and local recreation systems for 1995–99 are over $27 billion, according to the National Recreation and Parks Association, but we have a problem. The stateside Land and Water Conservation Fund has been shut down.

Over 30 years ago, in a bipartisan effort, Congress and the President created the Land and Water Conservation Fund referred to as the LWCF. It is funded primarily by offshore oil and gas revenues which now exceed $3 billion. My committee has authorized land and water conservation funding to the year 2015 with an annual ceiling of $900 million.

The LWCF stateside program promotes a unique partnership among Federal, State, and local governments. It provides matching grants that enable State and local governments to create recreation facilities, parks, and playgrounds. Because they are matching grants, they double the impact.

The stateside LWCF program has helped finance 37,500 national parks and recreation projects—campgrounds, trails, playgrounds, recreation centers, and gyms. It has also helped in my State of Alaska. We have had a number of very effective State and local parks which received a stateside LWCF grant. The demand continues to increase. As a matter of fact, in fiscal year 1995 over $600 million was requested.

But I want to explain very briefly, Mr. President, that the recent balanced budget agreement between that the administration and the congressional budget negotiators provided $700 million over 5 years for the Federal side of the Land and Water Conservation Fund. That is the portion of the fund used for land acquisition by the Federal land management agencies. The administration wants $315 million of that to buy Headwaters Forest and the New World Mine. This is not what LWCF was designed to do. The remaining $385 million, according to the administration, would be spent for Federal land purchases. That is hardly a State matching program. This means the stateside matching land and water conservation fund program would still remain unfunded.

So what would Americans get for their $700 million? More Federal land acquisitions over the next 5 years chosen by politicians in Washington, DC, rather than the people. State and local recreation projects, the ones closest to the people, get nothing, and that is too bad because those are matching funds and we get twice the bang for the buck. We need to save the stateside Land and Water Conservation Fund program and I have asked appropriators to provide some money to keep the matching grant program alive.

When Congress authorized the Land and Water Conservation Fund, it had two parts. One part dealt with Federal acquisitions. The other provided matching grants for State and local governments to purchase and develop parks and recreation facilities. The administration is trying to abolish the second half, and Congress should simply not let that happen. In fiscal years 1996 and 1997, Congress and the administration simply zeroed out those funds.

Mr. President, let me show you a couple of charts, and I will conclude my remarks. This chart shows the Land and Water Conservation Fund authorizations and appropriations. As one can see, the stateside LWCF appropriations in green have dramatically decreased. Of course, the authorizations have gone way up. What we have here is a dropoff from 1983 to 1995 down to 1996 where there is zero money provided for stateside LWCF matching grants. That is probably the greatest single significance of what the Federal role is. It is in matching, if you will, so that Federal appropriations can come on and the priorities can be addressed in an appropriate manner that represent the will and attitudes of States and local communities.

There is just one other chart that I want to show, and that is the receipts. Where does the money come from? It comes from a dedicated fund, the Outer Continental Shelf areas where revenues now exceed more than $3 billion a year. There is very little from recreation fees. There is some from the motor fuel tax and surplus property sales. The funding for the Land and Water Conservation Fund comes from offshore revenues, but the Appropriations Committee has seen fit to use those funds for other expenditures.

So, Mr. President, during Great Outdoors Week and every other week of the year, I ask that we all remember the value of outdoor recreation to Americans. We are blessed with a great natural bounty. It is our duty to conserve it. As a consequence, I urge my colleagues to reflect on the necessity of having a meaningful stateside Land and Water Conservation Fund program which would provide matching grants benefiting the States and allowing the priorities at hand to be met.

Mr. President, I thank the Chair and I yield the floor.

## TRIBUTE TO SENATOR THURMOND

Mr. COVERDELL. Mr. President, it is with great pleasure I come to the floor today to speak about a distinguished colleague and dear personal friend, Senator STROM THURMOND. I, like so many American citizens, have admired the senior Senator from South Carolina for his outstanding service to the United States in this chamber, and for the life he has lived through military service in World War II to his years of teaching, coaching, and practicing law in the Palmetto State.

The accomplishments and achievements which have been a part of Senator THURMOND's life are truly outstanding. Accordingly, his reach across this country, particularly the Southeast, is remarkable. One can go to the Georgia/South Carolina border, traveling along Interstate 20 to Florence, SC, and be driving on the Strom Thurmond Highway. Or one can take a stroll through the U.S. Capitol and walk into the beautiful Strom Thurmond room, so designated in 1991. These are just two of the many facilities named for the distinguished Senator because of his courage and patriotism. He has set a fine example for all Americans—from the students he taught from 1923–28 in Edgefield, McCormick, and Ridge Spring, SC, to the pages, interns, and staffers to whom he has been so gracious, friendly, and helpful since his arrival in the Senate in 1954.

Senator THURMOND has served diligently on the Armed Services, Judiciary, and Veterans' Affairs Committees. He has not only been a champion for his State, supporting such vital missions as those performed at the Savannah River site, but also a leader on security issues for our Nation as a whole. There is no question that his knowledge, understanding, and expertise in military affairs and foreign policy has strengthened our national security and helped to maintain the status of the United States as the world's preeminent military and economic power.

As a soldier, the Senator's record was no less impressive. In World War II, Senator THURMOND volunteered for active service on the day we declared war and flew his glider behind enemy lines during the D-day invasion with the 82d Airborne Division.

Following these heroics, he was awarded 18 decorations, including the Purple Heart, Bronze Star for Valor, and the Legion of Merit with Oak Leaf Cluster. His military service continued as he was promoted to major general in the U.S. Army Reserve in 1959. This is where he continued to serve in distinguished fashion for the next 36 years.

With the rest of his military and political career well documented and chronicled on the floor by my colleagues, I would just like to close now

by saying thank you to Senator THURMOND, as a citizen of the United States of America and as a colleague in the Senate. I am honored that I can say I served with you and called you my friend. Moreover, I know that many Americans will join me in commemorating the enduring record you have set and legacy you will leave for future generations.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 9, 1997, the Federal debt stood at $5,348,703,813,773.07. (Five trillion, three hundred forty-eight billion, seven hundred three million, eight hundred thirteen thousand, seven hundred seventy-three dollars and seven cents)

Five years ago, June 9, 1992, the Federal debt stood at $3,940,424,000,000. (Three trillion, nine hundred forty billion, four hundred twenty-four million)

Ten years ago, June 9, 1987, the Federal debt stood at $2,296,260,000,000. (Two trillion, two hundred ninety-six billion, two hundred sixty million)

Fifteen years ago, June 9, 1982, the Federal debt stood at $1,072,647,000,000. (One trillion, seventy-two billion, six hundred forty-seven million)

Twenty-five years ago, June 9, 1972, the Federal debt stood at $428,210,000,000 (Four hundred twenty-eight billion, two hundred ten million) which reflects a debt increase of nearly $5 trillion—$4,920,493,813,733.07 (Four trillion, nine hundred twenty billion, four hundred ninety-three million, eight hundred thirteen thousand, seven hundred thirty-three dollars and seven cents) during the past 25 years.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent to have 5 minutes as if in morning business and to extend the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

## OPPOSITION TO POSSIBLE NOMINATION OF JOHN HAMRE TO BE DEPUTY SECRETARY OF DEFENSE

Mr. GRASSLEY. Mr. President, on May 27 I sent a letter to President Clinton.

In it, I expressed opposition to the possible nomination of Mr. John J. Hamre to fill the No. 2 spot at the Pentagon.

He would be the Deputy Secretary of defense, and it's a big job.

I told the President why I would oppose this nomination—if it's ever made, and I'll give my reasons in just a moment.

But 2 days after writing this letter, the Washington Post ran a story about my opposition to the nomination.

Mr. Hamre was also interviewed.

He attempted to respond to my criticism.

Mr. President, I ask unanimous consent that my letter and the newspaper article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, I would like to address some of Mr. Hamre's assertions.

First, Mr. Hamre's remarks imply that my criticism is somehow personal.

Nothing could be further from the truth. He is a very likeable person.

But my personal feelings have absolutely nothing to do with my position on his nomination.

What I have tried to do is examine all the facts and then reach a conclusion based on those facts.

These are the facts as I know them.

In 1992, the inspector general [IG] examined the Department of Defense's [DOD] progress payment procedures.

The IG along with legal counsel declared that these policies ''resulted in the rendering of false accounts and violations of the law.''

The IG told the Department to get on the stick and fix the problem.

The bureaucrats balked.

Under pressure, they finally signed an agreement in March 1993.

In signing this document, they agreed to comply with the law.

One of the persons who signed this agreement was Mr. Alvin Tucker.

Well, 7 months after Mr. Tucker signed the agreement, Mr. Hamre became Comptroller and Chief Financial Officer or CFO.

Well, guess what?

Mr. Tucker became Mr. Hamre's most senior deputy. He became the Deputy CFO.

Mr. President, after becoming CFO, Mr. Hamre did nothing to meet the terms of the agreement and comply with the law.

Instead, he sided with the bureaucrats who were thumbing their noses at the law.

He gave them the green light to keep breaking the law.

He personally reauthorized their illegal operation.

Then, early this year he floated a legislative proposal.

His draft language would have sanctioned the procedure that the IG had declared illegal and that he, Mr. Hamre, had personally authorized.

Mr. President, those are the facts.

In my opinion, Mr. Hamre was attempting to legalize a crime.

Mr. Hamre knew full well his progess scheme was operating outside the law.

Otherwise, why would he feel like he needed some legal cover?

Second, he accuses me of making a mountain out of a molehill.

He claims I am focusing on a ''small policy'' issue.

I take issue with the notion that this is somehow an insignificant issue.

The statute that Mr. Hamre's progress payment scheme violates is section 1301 of title 31 of the United Statess Code.

This law embodies a sacred constitutional principle: Only Congress has the power to decide how public money many be spent.

This is the device that Congress uses to control the purse strings.

So, Mr. President, this isn't Mickey Mouse stuff. I'm talking about a constitutional principle.

When a constitutional principle is involved, it's very difficult for me to see the smallness of an issue.

Third, Mr. Hamre claims this is an acquisition issue—not a finance and accounting question.

This is an obvious attempt to deflect responsibility—away from himself.

It's an attempt to make it someone else's problem.

His reasoning is flawed.

If Mr. Hamre thinks this is an acquisition issue, maybe he has abdicated his responsibilities under the law—as CFO.

The CFO's responsibilities are spelled out in the ''Money and Finance'' section of the United States Code. That's in title 31.

His payment scheme violates section 1301 in the same book—title 31.

It does it by deliberately charging payments to the wrong accounts and then juggling the books to cover it up.

Anyone who thinks this is an acquisition issue needs to consult the law books.

When you go to the law library and locate title 31 and open the book, the subtitle staring you in the face is: ''Money and Finance.''

Section 1301 lies in a chapter entitled ''Appropriations.''

Mr. President, misappropriation, mischarging and cooking the books takes Mr. Hamre deep into the realm of money and accounting.

If this is just an acquisition issue, I'll eat my hat.

Fourth, when Mr. Hamre became CFO in October 1993, he declared war on financial mismanagement.

To claim success today, he cites ''steep drops in contract overpayments.''

Mr. Hamre's claims are not supported by the facts.

The General Accounting Office [GAO] has issued a series of reports on DOD overpayments.

These reports demolish Mr. Hamre's success stories.

The most recent report says Mr. Hamre's progress payments scheme is the biggest, single driver behind overpayments. He's to blame.

That's right, Mr. President, Mr. Hamre's own operations are causing overpayments to happen.

That's exactly what it says on page 12 of the GAO report entitled: ''Fixing DOD's Payment Problems is Imperative.''

This report is dated April 1997 and has the designation NSIAD–97–37.

GAO reports also say that DOD has no capability to detect overpayments.

Virtually every overpayment ever examined by the GAO was detected by

the person who got the check in the mail—the contractor—and not the Government.

In almost every case, overpayments were voluntarily refunded by the contractor who got the checks.

Now, Mr. President, if Mr. Hamre were really serious about eliminating overpayments, why didn't he just shut down the illegal progress payments operation—like the IG asked?

That would have removed the primary source of overpayments.

If Mr. Hamre has no capability to detect overpayments, how does he know whether they are going up or down?

How does he know they are going down, if he doesn't know how many there are?

Perhaps, if overpayments are really going down—like he says, it must mean the contractors have stopped making voluntary refunds.

Maybe they have decided to keep the money. That would help to keep the numbers down.

Mr. President, I will have much more to say about Mr. Hamre in the weeks ahead.

Some of my colleagues have asked me why I oppose this nomination.

I want to be sure they know where I am coming from.

EXHIBIT 1

U.S. SENATE,
*Washington, DC, May 27, 1997.*

President WILLIAM J. CLINTON,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: I am writing to inform you that I am opposed to the nomination of Mr. John J. Hamre to fill the number two position at the Department of Defense (DOD).

Secretary Cohen has recommended that Mr. Hamre be the next Deputy Secretary of Defense.

I am opposed to this nomination because Mr. Hamre has authorized and protected an illegal payment operation.

The procedure in question is the one DOD uses to make progress payments on contracts. Under Mr. Hamre's policy, payments are deliberately charged to the wrong accounts. Then, after the payments are made, DOD attempts to ''adjust'' the accounting ledgers to make it look like the checks were charged to the right accounts when the money was, in fact, spent some other way. Deliberately charging the wrong accounts and then juggling the books to make them look right is what I call ''cooking the books.''

Legal counsel has said that DOD's progress payment procedures ''result in the rendering of false accounts and violations of Section 1301.'' Section 1301 is a little known but very important law. It embodies a sacred constitutional principle: Only Congress decides how public money may be spent. Section 1301is the device the Congress uses to control the purse strings.

After the Inspector General declared that DOD progress payment procedures were illegal, the department's Chief Financial Officer (CFO), Mr. Hamre, had a responsibility to institute some reforms. In fact, his senior deputy made a formal commitment to obey the law. But instead of fixing the problem, Mr. Hamre tried to legalize the crime. Earlier this year, he circulated a piece of draft legislation for review and comment. His legislation would have sanctioned the payment procedures that the IG had declared illegal and that he had personally authorized in writing after becoming CFO.

Mr. Hamre's draft bill tells me that he knew full well that his progress payments process was operating outside the law. Otherwise, why was he seeking legal cover?

Mr. President, when I found out about what Mr. Hamre was up to, I went straight to the floor of the Senate to denounce his actions. I did it on two occasions. Once on January 28th (See pages S695–696 in the Record) and again on February 12th (S1265–1267).

I think Mr. Hamre has probably done an excellent job in making a case for the DOD budget before Congress. And that is the John Hamre that most senators know—the one wearing the budget hat. That's John Hamre, the Comptroller. But the budget is just part of his job. He wears another hat. He is also the department's CFO. As CFO, he is responsible for financial management and accounting. This has been his downfall. In the accounting field, Mr. Hamre has done a lousy job. I would give him a grade of F for his performance. The department's books are in a shambles. True, they were that way when he became CFO, but that was four years ago, and they are still that way. The department's books are in such a mess—so much documentation is missing—that they can't be audited as required by the CFO Act of 1990. And the situation is not expected to get much better anytime soon. The IG expects to keep giving DOD disclaimers of opinion ''well into the next century.''

One reason why DOD keeps flunking the CFO audits is sloppy bookkeeping. DOD refuses to do routine accounting work on a daily basis as transactions occur. And one of the most flagrant examples of sloppy bookkeeping is the progress payment process. As legal counsel said, it results in the rendering of false accounts and violations of Section 1301. Payments are deliberately charged to the wrong accounts and then DOD doctors the books to make them right with the law. With this kind of bookkeeping operation, it's next to impossible to either locate or follow the audit trail.

Mr. President, this is not ''mickey mouse'' accounting stuff that only ''bean counters'' need to worry about. This is about the breakdown of discipline and internal controls. That leaves the department's accounts vulnerable to theft and abuse. In recent years, several employees succeeded in tapping into the DOD money pipe undetected, stealing millions of dollars. They were caught as a result of outrageous personal behavior and not because of effective internal controls. How many others are still out there, ripping off the taxpayers?

Under the CFO Act, Mr. Hamre is responsible for ''improving internal controls and financial accounting.'' Because of his personal involvement in the illegal payment process and his failure to clean up the books, I do not believe that Mr. Hamre deserves to be promoted to Deputy Secretary of Defense.

Sincerely,

CHARLES E. GRASSLEY,
*U.S. Senator.*

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[From the Washington Post, May 29, 1997]

OFFICIAL IN LINE FOR NO. 2 DEFENSE POST REBUKED

(By Bradley Graham)

John Hamre, the Pentagon comptroller in line to become the Defense Department's new second-in-command, has come under an unusually sharp attack from Sen. Charles E. Grassley (R-Iowa) triggered by a dispute over how the department accounts for progress payments on contracts.

In a letter to President Clinton made public yesterday, Grassley accused Hamre of having ''authorized and protected an illegal payment operation'' and announced he would oppose Hamre's expected nomination.

The accounting practice, Grassley said, is symptomatic of the Pentagon's chronically ''sloppy bookkeeping.'' He charged Hamre had ''done a lousy job'' revamping the Pentagon's financial management during his four years as comptroller, adding that the Pentagon's books remain a ''mess.''

Hamre, a former Senate staff member who enjoys widespread favor on Capitol Hill, was stunned and puzzled by the harshness and personal focus of Grassley's remarks. At issue, he said, was just an honest disagreement over a Pentagon contracting practice that dates back several decades.

''The senator has taken an important but small acquisition policy issue and applied it to my entire tenure,'' Hamre said in a brief phone interview. ''I'm sorry he's done that, and I'd welcome a chance to talk about it.''

Grassley repeatedly has called attention to the Pentagon's antiquated accounting system, deploring its waste and vulnerability to fraud. Hamre, in turn, declared improvements in controls and methods a top priority when he took over as the Pentagon's top financial officer in 1993. Since then, the Pentagon has reported steep drops in contract overpayments and unmatched disbursements, begun a shift from paper-based to electronic payments and consolidated financial offices.

But what troubles Grassley is the Pentagon's continuing practice of making periodic payments on contracts without correlating them to the work done, a process that Grassley says the Pentagon's inspector general declared illegal in 1992.

''Under Mr. Hamre's policy,'' Grassley wrote, ''payments are deliberately charged to the wrong accounts. Then, after the payments are made, DOD attempts to 'adjust' the accounting ledgers to make it look like the checks were charged to the right accounts when the money was, in fact, spent some other way.

''Deliberately charging the wrong accounts and then juggling the books to make them look right is what I call 'cooking the books,'" the senator added.

Hamre maintains there is nothing nefarious about the practice. He said the system of progress payments was adopted years ago to allow the contractor to avoid having to borrow money, and thus keep project costs down. Whether the Pentagon should move to a more precise billing process now, he said, is a contracting issue, not a financial management one. Just how far Grassley intends to go in thwarting Hamre's accession is unclear. While Defense Secretary William S. Cohen has recommended Hamre for the job of deputy secretary, Clinton has not publicly affirmed the choice.

If the nomination goes to Capitol Hill, Grassley could simply vote against it or, as he has done in previous instances, exercise his senatorial prerogative to block the nomination from coming to a floor vote.

''I don't know what we're going to do yet,'' a Grassley aide said.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I may speak for a few minutes about some concerns about the budget that I have. I understand the chair will be occupied during that time. I therefore ask consent I be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VIOLATING THE BUDGET AGREEMENT

Mr. LAUTENBERG. Mr. President, I rise to express some concerns that I have about recent developments that are occurring in the House of Representatives related to the budget. It was just a few nights ago, a few evenings ago, that we got a conference report from the House that was passed by a substantial margin in the Senate that confirms that the work we did in the budget negotiations was satisfactory to both the Members of the other body and the Senate. We had been through it here once before, the conference report, to get the budget resolution confirmed. It passed 78 to 22. The vote was almost identical when we got the conference report back. That was Thursday evening. I was stunned to read in Friday morning's newspaper that there were challenges to the assumptions that were made, to the agreements that were made to try to get that budget done, to try to forge a consensus agreement.

I must point out that this is not an agreement that I have heard people standing up and lauding and saying, ''I love it. It is the perfect budget agreement. It is everything my constituents want it to be.'' By no means. But there is in this budget agreement something I think both parties can salute. There is an investment in the middle class, there is an investment in education, there is some tax relief for the middle class. Once again, if we look at the extremes, we are all woefully short of things that I would have liked to have if I had an ideal opportunity to design it myself. But I do not, and we represent a consensus. Mr. President, 50 States are represented here by the two Senators from each State who are here to argue the case from their particular point of view.

A bipartisan budget agreement was the product of extensive negotiations involving compromises by everyone involved, and many provisions were the subject of protracted discussion, with each word carefully considered and debated. In the end, we struck a delicate balance, and the resulting agreement, if implemented, will provide, I believe, great benefits to our Nation. It will give us the first balanced budget since 1969. It will provide tax relief, as I said earlier, to the middle class. It will protect Medicare, extend its solvency, and it will do something about cleaning up the environment, investments in education, and other significant national priorities.

Unfortunately, since the handshake that took place here—it took place in the negotiating room between the chairman and the ranking members and the representatives of the President—two House committees are now moving to alter the bipartisan budget agreement when the ink is barely dry. It is a matter of great concern to me and it ought to be a matter of great concern to everybody here who thought we had accomplished something significant when we passed that budget agreement. Although the steps have been taken in the other body, I want to raise my concerns here before Senate committees begin the process of marking up their own reconciliation packages.

For instance, one important provision of the bipartisan budget agreement would protect immigrants, legal immigrants who have come to this country, who paid their taxes, played by the rules, and who then suffer from a disability—perhaps from an automobile accident or an illness that robs them of their ability to function as they used to—eyesight or other physical ailments that affect their capacity to walk or to work. The budget agreement says these people should be protected.

It states on page 22 of the agreement of the budget resolution that Congress will:

. . . restore SSI and Medicaid eligibility for all disabled legal immigrants who are or who become disabled and who entered the United States prior to August 23, 1996.

That was a compromise date, I point out. Unfortunately, last week in the House Ways and Means Subcommittee on Human Resources, they reported a bill that fails to do this and suggests reducing the numbers of people and reducing the availability of these services, these programs for these disabled people. It directly violates this portion of the agreement, the compromise that they are proposing. The compromise was already done. The subcommittee's action is not an innocent mistake. It is not based on differences in interpreting the agreement. This is a blatant, intentional violation of the bipartisan budget accord which should not be tolerated. Certainly it should not be begun unilaterally so soon after the agreement is done.

If we had things that we wanted to talk about, they ought to be talked about cautiously and not entered into the news media immediately as something they want to change.

Mr. President, I ask unanimous consent to have printed in the RECORD two letters from the Director of OMB, Frank Raines, to the chairman of the Budget Committee and to Representative SHAW, the chairman of the Subcommittee on Human Resources in the Committee on Ways and Means, that outline this and other similar concerns about the implementation of the budget agreement.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
*Washington, DC, June 5, 1997.*

Hon. JOHN KASICH,
*Chairman, Committee on the Budget, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Enclosed is a letter I sent earlier today to the Chairman and Ranking Member of the Ways and Means Human Resources Subcommittee regarding Subcommittee markup of legislation to implement the Bipartisan Budget Agreement.

The preliminary markup documents we reviewed were inconsistent with the agreement in several important respects. I hope that by identifying these issues as early as possible, we will be able to implement the agreement in a bipartisan manner.

Sincerely,

FRANKLIN D. RAINES.

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EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
*Washington, DC, June 5, 1997.*

Hon. E. CLAY SHAW, Jr.,
*Chairman, Subcommittee on Human Resources, Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: As you know, the Administration and the bipartisan congressional leadership recently reached agreement on a historic plan to balance the budget by 2002 while investing in the future. The plan is good for America, its people, and its future, and we are committed to working with Congress to see it enacted.

With regard to welfare, the budget agreement called for restoring Supplemental Security Income (SSI) and Medicaid benefits for immigrants who are disabled or become disabled and who entered the country before August 23, 1996; extending from five to seven years the exemption in last year's welfare law for refugees and asylees for the purposes of SSI and Medicaid; and making other important changes.

We have reviewed the Subcommittee's draft markup document, however, and we have found a number of provisions that are inconsistent with the budget agreement in these and other areas. Consequently, if the Subcommittee were to proceed with its legislation in this form, we would be compelled to invoke the provisions of the agreement that call on the Administration and the bipartisan leadership to undertake remedial efforts to ensure that reconciliation legislation is consistent with the agreement.

We appreciate the fact that the Subcommittee has a mark that includes several provisions that the Administration supports, such as in the areas of welfare to work and State SSI administrative fees.

*Welfare to Work.*—We are pleased the budget agreement includes the President's $3 billion welfare-to-work proposal and that the Subcommittee included provisions that meet many of the Administration's priorities. Specifically, we are pleased that the mark provides funds for jobs where they are needed most to help long-term recipients in high unemployment-high poverty areas; directs funds to local communities with large numbers of poor people; awards some funds on a competitive basis, assuring the best use for scarce resources; and gives communities appropriate flexibility to use the funds to create successful job placement and job creation programs.

Though your mark does not address a performance fund, we appreciate your willingness to consider a mechanism to provide needed incentives and rewards for placing the hardest-to-serve in lasting, unsubsidized jobs that promote self-sufficiency. In addition, we stand ready to continue to provide assistance in refining targeting factors.

*State SSI Administrative Fees.*—The Administration is pleased that the Subcommittee has included a provision, consistent with the budget agreement, to increase the administrative fees that the Federal Government charges States for administering their State supplemental SSI payments and to make the increase available, subject to appropriations, for Social Security Administration (SSA) administrative expenses.

In a number of areas, however, we have serious concerns with provisions that do not

reflect the budget agreement. The Administration has separately transmitted draft legislation that reflects the budget agreement's provisions on benefits to immigrants.

*Continued SSI and Medicaid Benefits for Legal Immigrants*.—The Administration strongly opposes the provision that denies coverage to many legal immigrants who were in the United States when the welfare law was signed but who become severely disabled after that date. The budget agreement explicitly states, ''Restores SSI and Medicaid eligibility for all disabled legal immigrants who are or become disabled and who enter the U.S. prior to August 23, 1996.'' The mark fails to reflect that agreement by only ''grandfathering'' those now receiving SSI, therefore dropping those who would become disabled in the future and would be eligible for benefits under the agreement. Instead of enacting the budget agreement, the Subcommittee would grandfather immigrants who were on the SSI rolls on August 22, 1996, thus protecting 75,000 fewer immigrants than the budget agreement by the year 2002. By contrast, the agreement targets the most vulnerable individuals by providing a safety net for all immigrants in the country when the welfare law was signed who have suffered—or may suffer in the future—a disabling accident or illness.

In contrast with the budget agreement, which was designed to restore benefits, the markup document would provide SSI and Medicaid benefits to immigrants now on the rolls only if the immigrant has no sponsor, the sponsor has died, or the sponsor has income under 150 percent of the poverty level. The Administration strongly opposes this provision, which would cut off about 100,000 severely disabled legal immigrants who would receive benefits under the budget agreement. We understand that the Subcommittee may drop this provision, and we hope that is true.

As noted above, the agreement provided for both SSI and Medicaid eligibility for disabled legal immigrants. The mark, however, also fails to guarantee Medicaid coverage for all disabled legal immigrants who continue to receive SSI. For States in which SSI eligibility does not guarantee Medicaid coverage and for States that choose not to provide Medicaid coverage to legal immigrants who were in the U.S. prior to August 23, 1996, legal immigrants who receive SSI would not be guaranteed to continue receiving Medicaid. To conform to the policy in the budget agreement, the Subcommittee should include a provision in its bill to explicitly guarantee Medicaid coverage to disabled legal immigrants who continue to receive SSI.

*Refugee and Asylee Eligibility*.—The budget agreement would extend the exemption period from five to seven years for refugees, asylees, and those who are not deported because they would likely face persecution back home. However, the Subcommittee's proposal would provide that extension for refugees and not for asylees and others. Such asylees and others should receive the additional two years to naturalize.

In addition to the provisions in the Subcommittee markup related to immigration, the Administration has the following concerns:

*Unemployment Insurance Integrity*.—The Subcommittee draft does not include the provision of the budget agreement that achieves $763 million in mandatory savings over five years through an increase in discretionary spending of $89 million in 1998 and $467 million over five years. These savings are a key component of the budget agreement. The discretionary spending that the agreement assumes, and which would be subject to appropriation, would support the necessary additional eligibility reviews, tax audits, and other integrity activities that, the evidence demonstrates, will yield the savings. We urge the Subcommittee to adopt this provision to achieve the specified savings.

*The Federal Unemployment Account*.—The Administration supports the proposed increase in the Federal Unemployment Account ceiling, which reflects the budget agreement. The mark, however, does not accomplish another aspect of the agreement, because it only ''authorizes'' $100 million to the States in 2000–2002 for Unemployment Insurance administrative funding, rather than making the payments mandatory as the agreement provides. We look forward to working with the Subcommittee to address this issue.

The Subcommittee mark also includes a member of provisions that were not specifically addressed in the budget agreement, and about which the Administration has serious concerns. They include the following:

*Minimum Wage and Workfare*.—The Administration strongly opposes the Subcommittee's proposal on the minimum wage and welfare work requirements.

First, the proposal goes beyond the scope of the budget agreement and, thus, should not be included in the reconciliation bill.

Second, the proposal would undermine the fundamental goals of welfare reform. The Administration believes strongly that everyone who can work must work, and those who work should earn the minimum wage—whether they are coming off of welfare or not. The proposal does not meet this test.

*Worker Protections in Welfare to Work*.—We are deeply disappointed in the Subcommittee draft's lack of adequate worker protection and non-displacement provisions. We strongly urge the Subcommittee to adopt, at a minimum, the provisions included in H.R. 1385, the House-passed job training reform bill.

*Repeal of Maintenance of Effort Requirements on State Supplementation of SSI Benefits*.—Historically, the Administration has strongly opposed the repeal of maintenance-of-effort requirement because it would let States significantly cut, or even eliminate, benefits to nearly 2.4 million poor elderly, disabled, and blind persons. Congress instituted the maintenance-of-effort requirement in the early 1970s to prevent States from transferring Federal benefit increases from SSI recipients to State treasuries. The proposal also could cause some low-income elderly and disabled individuals to lose SSI entirely and to lose Medicaid coverage as well. The Administration opposed this proposal in last year's welfare reform debate.

*Other TANF Provisions*.—The Administration is concerned with several provisions in the mark that were not in the budget agreement. For example, the agreement did not address making changes in the TANF work requirements regarding vocational education and educational services for teen parents. The Administration opposes the provision allowing States to divert TANF funds away from welfare-to-work efforts to other social service activities.

The budget agreement reflects compromise on many important and controversial issues, and challenges the leaders on both sides of the aisle to achieve consensus under difficult circumstances. We must do so on a bipartisan basis.

I look forward to working with you to implement the historic budget agreement.

Sincerely,

FRANKLIN D. RAINES,
*Director*.

Mr. LAUTENBERG. Mr. President, today the House Commerce Committee, the Subcommittee on Health and Environment, will consider legislation introduced by the chairman of that subcommittee that also breaks the bipartisan budget agreement. The budget agreement calls for $1.5 billion to ease the impact of increasing Medicare premiums on low-income beneficiaries. This provision was included because the budget agreement calls for phasing in increases in Medicare premiums to accommodate the shift of home health care expenditures from part A to part B. We were worried because there is going to have to be, in order to provide the solvency that we found for Medicare to continue, or the Medicaid programs, we had proposed expanding Medicaid premium coverage for Medicare recipients who had incomes of 120 to 150 percent of poverty. That is pretty modest going.

The final agreement threw out the specifics of the premium proposal. However, it did call for spending the $1.5 billion on whatever policy Congress chose to enact. But that was not the understanding. Regretfully, the House committee with jurisdiction of Medicaid will only include $300 to $400 million for this provision, one we labored long and hard over. It is another clear violation of the budget agreement, and it is very troubling.

I am also concerned about the tax bill that the chairman of the House Ways and Means Committee outlined yesterday. The chairman's bill would only provide $30.8 billion—not an insignificant amount—in tax incentives for higher education. But that was fought for very stoutly; that it was to get $35 billion. And only about $22 billion of the proposal of this type is for the benefits that were advocated by the President, understood to be something we could agree on, falling far short of, and I quote here, the ''roughly $35 billion.'' That language was struggled over, ''roughly $35 billion.'' I tell you this, no one can buy a house for ''roughly $35,000,'' or a car for ''roughly $15,000.'' How much is it? Well, that is what it ought to be. That language was compromise language, because we knew the intent or believed the intent of both Speaker GINGRICH and/or the distinguished leader here, Senator LOTT, was their commitment to the program. Although the word ''roughly'' was there, it should be interpreted broadly, and I think this, frankly, goes too far, when they start making the cuts in the House committee that are inconsistent with the agreement.

Mr. President, the bipartisan budget agreement calls on the House and Senate leadership to take remedial efforts to ensure that this document is implemented in the legislative process. Leadership action is critical if the agreement is to be implemented properly. And, therefore, I hope that Speaker GINGRICH will intervene promptly and require that in all cases I have mentioned the relevant committees make the changes necessary to be consistent with the agreement that we have.

If the congressional leadership fails to enforce the agreement, it will not be worth the paper it is written on and in the process of reconciliation we could be looking at very serious problems getting this program into place.

Mr. President, I also want to take a moment to talk about the disaster supplemental. I am pleased to note that yesterday the President vetoed the bill because it contains the so-called automatic CR. The automatic CR also violates the bipartisan budget agreement for two reasons.

First, it would lower the amount of discretionary spending available for fiscal 1998. The budget agreement calls for $527 billion in discretionary spending for fiscal year 1998, which is $17 million over last year's level. If the automatic continuing resolution is enacted, the majority could refuse to pass the 13 appropriations bills, thereby cutting the $17 billion in discretionary spending. That would absolutely violate one of the basic Democratic accomplishments in the budget agreement and, again, the consensus.

The automatic CR would make deep cuts in programs that are protected in the budget agreement. The bipartisan negotiators agreed to provide large increases in 13 major discretionary programs. Examples of these programs include elementary and secondary education, Pell grants, child literacy, Head Start, national parks, job training, Clean Water Act, Superfund, and the COPS Program. Some of the programs are preferred by Democrats, some preferred by Republicans, but the fact is we arrived at a consensus. Both parties wanted this done. An automatic CR would freeze these programs at last year's level, and they would not get the increases promised in the budget agreement, at least without further congressional action.

So, I hope the leadership will comply with the budget agreement, put the plight of disaster victims above politics, strip the automatic CR from the bill and send the President a clean version of the disaster relief bill that he can sign.

Mr. President, I conclude and I thank you for your indulgence with this simple message: A promise is a promise. A deal is a deal. The Republican leadership made a promise to the Democrats in the Congress and to the President. What I am asking here today is that they make sure that promise is kept by their committee chairs, subcommittee chairs, and those who would violate the agreement after all of that labor and what I think was a smashing success.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I send a bill to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senator, we have passed the hour for recess.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent we extend this time for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The time is extended for 10 minutes.

The Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 866 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

## DISASTER RELIEF BILL

Mrs. HUTCHISON. Mr. President, I would like to finish by adding to what Senator LAUTENBERG has said, that we sent a bill to the President for disaster relief for the victims of North and South Dakota and Minnesota. We sent him a bill that we hoped he would sign. I don't think the President has explained why he would veto a bill that he says is necessary for these disaster victims when, in fact, all we did was say we are also going to make sure that we don't shut down the Government so that the very people we are trying to help will not be able to get the checks that they need after September 30 if Congress and the President have not come to agreement.

It is very important that people understand that the budget agreement for the 1998 budget year are allocations, they are not appropriations. In fact, to actually spend the money, it takes both Congress and the President to agree. Sometimes, the Congress and the President don't agree before September 30, which is the end of the fiscal year. So we have to start a new fiscal year. Now, if there is not an agreement and we don't have a provision for continuing Government, then we can shut down Government again. That is not what anyone wants to do.

So Congress has in the disaster relief bill and the supplemental appropriations to go with that bill, the process that says we are not going to shut down Government, we are going to keep spending money at the same level that is being spent this year, and then when the agreement is made between Congress and the President, we will be able to go into whatever Congress and the President agree on.

When anyone talks about cuts in spending because we go into the 1998 year under the 1997 spending, there are no cuts because there have been no appropriations for 1998, and we haven't come to agreement on the specifics.

I think it is very proper to ask why the President did not sign the bill. I think it is proper to say to the President, ''We did send you a bill; you chose not to sign it. I think you owe an explanation to the disaster victims of why you would stand for the authority to shut down Government when we are trying to continue the process of covering people in case some of the appropriations bills are not passed at the end of the fiscal year.''

We just want to make sure that people can plan ahead, that they will know that their paychecks will be there if they work for the Government, that their pensions will be there if they are veterans who have earned their pensions, that there will not be a disruption of our Government. We are not cutting back from this year's expenditures. We will say we will keep on going until we have an agreement, and when that agreement is made, then we go forward and the President and the Congress together do the job that both of us were elected to do. So I think it is very important the people of this country have the facts and know that we are trying to help with all of the Federal emergency management funds that need to be replenished as well as the funds to replenish the Bosnia accounts and the many other supplemental expenditures that are in that bill.

Mr. President, I think it is very important that the President of the United States sign the bill and continue the operation of Government as usual so that the people in our country, on September 30, will not have to worry about a disruption in their lives if they work for the Government or if they have earned veterans' pensions or if they plan a family vacation or if they are going on a business trip and they have not renewed their passports. Those are the things that are at stake here.

We have a lot of responsibility. We can meet that responsibility by making sure that the disaster victims are covered and that we keep Government going on a rational and responsible basis.

Thank you, Mr. President. I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now be in recess until 2:15 p.m.

Thereupon, at 1:05 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

H.R. 908. An act to establish a Commission on structural alternatives for the Federal Courts of Appeals.

H.R. 1000. An act to require States to establish a system to prevent prisoners from being considered part of any household for purposes of determining eligibility of the household for purposes of determining eligibility of household for food stamp benefits and the amount of food stamp benefits to be provided to the household under the Food Stamp Act of 1977.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2097. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to assessing and collecting tax settlements in Tax Court, received on June 2, 1997; to the Committee on Finance.

EC–2098. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to whether section 277 applies to nonexempt cooperatives, received on June 2, 1997; to the Committee on Finance.

EC–2099. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to summonses to compel taxpayers to sign consent directives, received on June 2, 1997; to the Committee on Finance.

EC–2100. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to Article 23(1)(c) of the U.S.–U.K. Income Tax Treaty, received on June 2, 1997; to the Committee on Finance.

EC–2101. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to the Application for Automatic Extension of Time to File Income Tax, received on June 2, 1997; to the Committee on Finance.

EC–2102. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to disablity benefits under the Policeman and Firefighter's Retirement Fund, received on June 2, 1997; to the Committee on Finance.

EC–2103. A communication from the Office of the Chief Counsel of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule entitled ''Utilities Industry Coordinated Issue: Investment Credit on Transition Property,'' received on June 3, 1997; to the Committee on Finance.

EC–2104. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a treasury notice 97–33, received on June 3, 1997; to the Committee on Finance.

EC–2105. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a treasury notice 97–34, received on June 3, 1997; to the Committee on Finance.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN (for himself and Mr. SARBANES):

S. 863. A bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. KERREY, and Mr. CONRAD):

S. 864. A bill to amend title XIX of the Social Security Act to improve the provision of managed care under the medicaid program; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. MACK, and Mr. BAUCUS):

S. 865. A bill to provide for improved coordination, communications, and enforcement related to health care fraud, waste, and abuse, to create a point of order against legislation which diverts savings achieved through medicare waste, fraud, and abuse enforcement activities for purposes other than improving the solvency of the Federal Hospital Insurance Trust Fund under title XVIII of the Social Security Act, to ensure the integrity of such trust fund, and for other purposes; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 866. A bill to amend title 28, United States Code, to provide that certain voluntary disclosures of violations of Federal law made as a result of a voluntary environmental audit shall not be subject to discovery or admitted into evidence during a judicial or administrative proceeding, and for other purposes; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 867. A bill to assist State and local governments in establishing effective criminal records concerning serious and violent juvenile offenders and information concerning adult members of violent criminal gangs and Federal, State, and local criminal justice officials in countering the rise in serious crime, and for other purposes; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. HUTCHINSON, Mr. REID, Mr. BRYAN, and Mr. ROCKEFELLER):

S. 868. A bill to amend the Social Security Act to prohibit persons from charging for services or products that the Social Security Administration and Department of Health and Human Services provide without charge; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. TORRICELLI, Mr. WYDEN, Mr. BINGAMAN, Mr. KERRY, Mr. WELLSTONE, Mr. HARKIN, Ms. LANDRIEU, Mr. FEINGOLD, Mrs. MURRAY, Mrs. BOXER, Mr. LEVIN, Mr. SARBANES, Mr. AKAKA, Mr. LAUTENBERG, Mr. DURBIN, Mr. CHAFEE, Mr. KOHL, Mr. INOUYE, Ms. MIKULSKI, Mr. ROBB, Mr. MOYNIHAN, Mrs. FEINSTEIN, Mr. DODD, Mr. REID, Mr. LEAHY, Mr. BRYAN, Ms. MOSELEY-BRAUN, Mr. GLENN, Mr. KERREY, Mr. REED, Mr. D'AMATO, and Mr. CLELAND):

S. 869. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

By Mr. WELLSTONE:

S. 870. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, approval, and use of medical devices to maintain and improve the public health and quality of life of individuals, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NICKLES (for himself and Mr. INHOFE):

S. 871. A bill to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROBERTS (for himself, Mr. HARKIN, Mr. HATCH, Mr. JOHNSON, Mr. BAUCUS, Mr. D'AMATO, Mr. BENNETT, and Mr. CRAIG):

S. 872. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes; to the Committee on Finance.

By Mr. ASHCROFT:

S. 873. A bill to amend the prohibition of title 18, United States Code, against financial transactions with state sponsors of international terrorism; to the Committee on the Judiciary.

By Mr. FAIRCLOTH (for himself and Mr. SHELBY):

S. 874. A bill to amend title 31, United States Code, to provide for an exemption to the requirement that all Federal payments be made by electronic funds transfer; to the Committee on Finance.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN (for himself and Mr. SARBAMES):

S. 863. A bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia; to the Committee on Energy and Natural Resources.

### LEGISLATION TO ESTABLISH MAHATMA GANDHI MEMORIAL

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to authorize the placement of a statue of Mohandas Karamchand Gandhi —Mahatma Gandhi—on Federal land across the street from the Indian embassy in Washington DC. The Government of India has offered a statue of Gandhi as a gift to the United States. In order to place it on Federal land, an act of Congress is required. This bill will fulfill just that purpose, and I thank the Senator from Florida [Mr. MACK] and the Senator from Maryland, [Mr. SARBANES] for joining me in this endeavor.

India is currently celebrating the 50th anniversary of its independence. Authorizing the placement of a statue of Mahatma Gandhi, often called the father of the Indian nation, would serve as a fitting tribute to Indian democracy which has survived—in fact, thrived—despite enormous challenges, and a symbol of the growing strength of the bonds between our two countries.

It is particularly appropriate that a statue of Mahatma Gandhi be selected for this purpose. The effects of his non-

violent actions and the philosophy which guided them were not limited to his country, nor his time. His influence in the United States was most notably felt in the civil rights movement, but has also infused all levels of our society.

If I may invade ever so slightly the privacy of the President's luncheon table, in May 1994, Mr. Clinton had as his guest the distinguished Prime Minister of India, Mr. P.V. Narasimha Rao, who in his youth was a follower of Mahatma Gandhi. In a graceful passage, Prime Minister Rao related how it came to pass that Mahatma Gandhi, caught up in the struggle for fair treatment to the Indian community in South Africa, and in consequence in jail, read Thoreau's essay on ''Civil Disobedience'' which confirmed his view that an honest man is duty-bound to violate unjust laws. He took this view home with him, and in the end the British raj gave way to an independent Republic of India. Then Martin Luther King, Jr., repatriated the idea and so began the great civil rights movement of this century.

Dr. Martin Luther King, Jr., has written of the singular influence Gandhi's message of nonviolent resistance had on him when he first learned of it while studying at Crozier Theological Seminary in Philadelphia. He would later describe that influence in his first book, ''Stride Toward Freedom'':

> As I read I became deeply fascinated by [Gandhi's] philosophy of non-violent resistance . . . as I delved deeper into the philosophy of Gandhi, my skepticism concerning the power of love gradually diminished, and I came to see its potency in the area of social reform . . . prior to reading Gandhi, I had concluded that the love ethics of Jesus were only effective in individual relationships . . . but after reading Gandhi, I saw how utterly mistaken I was.
>
> . . . It was in this Gandhian emphasis on love and non-violence that I discovered the method for social reform that I had been seeking for so many months . . . I came to feel that this was the only morally and practically sound method open to oppressed people in their struggle for freedom . . . this principle became the guiding light of our movement. Christ furnished the spirit and motivation and Gandhi furnished the method.

Martin Luther King, Jr., believed that Gandhi's philosophy of nonviolent resistance was the guiding light of the American civil rights movement. As Dr. King wrote, ''Gandhi furnished the message.'' A statue of Gandhi, given as a gift from the Government of India, on a small plot of Federal land along Massachusetts Avenue, in front of the Indian Embassy, will stand not only as a tribute to the shared values of the two largest democracies in the world but will also pay tribute to the lasting influence of Gandhian thought on the United States. An influence that is so pervasive that when the President and the Prime Minister of India meet at the White House for lunch, a half-century after Gandhi's death, it is no surprise that he should be a topic of conversation.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. KERREY, and Mr. CONRAD):

S. 864. A bill to amend title XIX of the Social Security Act to improve the provision of managed care under the Medicaid Program; to the Committee on Finance.

THE MEDICAID MANAGED CARE ACT OF 1997

Mr. CHAFEE. Mr. President, I am pleased today to introduce The Medicaid Managed Care Act of 1997. This legislation meets two very important objectives in the Medicaid Program. First, it gives States the additional flexibility they need to administer the Medicaid Program by allowing them to enroll Medicaid beneficiaries into managed care Programs. Second, the bill sets Federal standards for managed care to ensure that Medicaid patients receive the same quality of care as those patients who are enrolled in private managed care plans.

Under our legislation, States could require Medicaid patients to enroll in managed care plans without going through the lengthy and cumbersome process of applying to the Secretary of Health and Human Services for a waiver of current Medicaid regulations. In exchange for this important flexibility, States will have to meet a set of minimum Federal standards to ensure that Medicaid patients continue to receive quality care.

For example, States would be required to offer patients a choice of at least two health plans. Plans would be required to meet certain standards of access to care, quality, and solvency. These standards are especially important given recent problems in States that have set up Medicaid managed care programs under the waiver process. In some instances, plans have failed to contract with enough providers to serve the Medicaid population. Some have been permitted to operate under standards that are lower than commercial insurers are required to meet, and others have used fraudulent marketing practices to entice Medicaid patients to sign up with their plans. These actions have resulted in patients being denied medically necessary services, and have resulted in States and the Federal Government paying for care that was never given.

Considering these abuses, why should we allow Medicaid managed care at all? Because managed care, if implemented correctly, can vastly improve the quality of health care provided to low-income families. In today's fee-for-service program, patients face myriad problems. Some are forced to get care in hospital emergency rooms because they cannot find a private physician willing or able to accept Medicaid's low payment rates. Those who do have access to providers often must wait for hours in clinics which are overcrowded and understaffed. And, sadly, they often do not have access to primary and preventive care services which would have prevented them from becoming ill to begin with.

Medicaid managed care, if done well, provides regular prenatal care to assure that children are born healthy. These plans provide coverage for check-ups and immunizations to prevent serious illnesses. And they give patients a medical home—a provider they know they can go to if they are sick, or a number to call if they have questions.

Medicaid managed care also has the potential of benefiting our overall health care system by providing access to primary care providers rather than forcing patients to make costly and unnecessary visits to hospital emergency rooms. It gives providers the opportunity to catch and treat, or prevent, costly health problems.

Mr. President, we have worked very hard to ensure that this legislation strikes an appropriate balance between the needs of Medicaid beneficiaries and the managed care companies. I want to thank Senators BREAUX and KERREY who helped craft this legislation and are original cosponsors. I also want to thank the many advocacy organizations for their input and support. And I also want to thank some of the managed care organizations who worked with us. I am especially pleased that some of these organizations, such as the HMO Group which is an alliance of health maintenance organizations have endorsed this legislation. Their support is critical to the success of Medicaid managed care.

I ask unanimous consent that the text of the legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 864

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO THE SOCIAL SECURITY ACT.**

(a) SHORT TITLE.—This Act may be cited as the ''Medicaid Managed Care Improvement Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

(c) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

**SEC. 2. IMPROVEMENTS IN MEDICAID MANAGED CARE PROGRAM.**

Title XIX is amended—

(1) by inserting after the title heading the following:

''PART A—GENERAL PROVISIONS''; AND

(2) by adding at the end the following new part:

''PART B—PROVISIONS RELATING TO MANAGED CARE

**''SEC. 1941. BENEFICIARY CHOICE; ENROLLMENT.**

''(a) STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this part and notwithstanding paragraphs (1), (10)(B), and (23)(A) of section 1902(a), a State may require an individual who is eligible for medical assistance under the State plan under this title and who is not a special needs individual (as defined in subsection (e)) to enroll with a managed care entity (as defined in section 1950(a)(1)) as a condition of receiving such assistance (and, with respect to assistance furnished by or under arrangements with such entity, to receive such assistance through the entity), if the following provisions are met:

''(A) ENTITY MEETS REQUIREMENTS.—The entity meets the applicable requirements of this part.

''(B) CONTRACT WITH STATE.—The entity enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such entity are made on an actuarially sound basis. Such contract shall specify benefits the provision (or arrangement) for which the entity is responsible.

''(C) CHOICE OF COVERAGE.—

''(i) IN GENERAL.—The State permits an individual to choose a managed care entity from managed care organizations and primary care case providers who meet the requirements of this part but not less than from—

''(I) 2 medicaid managed care organizations,

''(II) a medicaid managed care organization and a primary care case management provider, or

''(III) a primary care case management provider as long as an individual may choose between 2 primary care case managers.

''(ii) STATE OPTION.—At the option of the State, a State shall be considered to meet the requirements of clause (i) in the case of an individual residing in a rural area, if the State—

''(I) requires the individual to enroll with a medicaid managed care organization or primary care case management provider if such organization or entity permits the individual to receive such assistance through not less than 2 physicians or case managers (to the extent that at least 2 physicians or case managers are available to provide such assistance in the area), and

''(II) permits the individual to obtain such assistance from any other provider in appropriate circumstances (as established by the State under regulations of the Secretary).

''(D) CHANGES IN ENROLLMENT.—The State provides the individual with the opportunity to change enrollment among managed care entities once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment, permits individuals to change their enrollment for cause at any time and without cause at least every 12 months, and allows individuals to disenroll without cause within 90 days of notification of enrollment.

''(E) ENROLLMENT PRIORITIES.—The State establishes a method for establishing enrollment priorities in the case of a managed care entity that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the entity are given priority in continuing enrollment with the entity.

''(F) DEFAULT ENROLLMENT PROCESS.—The State establishes a default enrollment process which meets the requirements described in paragraph (2) and under which any such individual who does not enroll with a managed care entity during the enrollment period specified by the State shall be enrolled by the State with such an entity in accordance with such process.

''(G) SANCTIONS.—The State establishes the sanctions provided for in section 1949.

''(2) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The default enrollment process established by a State under paragraph (1)(F)—

''(A) shall provide that the State may not enroll individuals with a managed care entity which is not in compliance with the applicable requirements of this part;

''(B) shall provide (consistent with subparagraph (A)) for enrollment of such an individual with a medicaid managed care organization—

''(i) first, that maintains existing provider-individual relationships or that has entered into contracts with providers (such as Federally qualified health centers, rural health clinics, hospitals that qualify for disproportionate share hospital payments under section 1886(d)(5)(F), and hospitals described in section 1886(d)(1)(B)(iii)) that have traditionally served beneficiaries under this title, and

''(ii) lastly, if there is no provider described in clause (i), in a manner that provides for an equitable distribution of individuals among all qualified managed care entities available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such entities;

''(C) shall permit and assist an individual enrolled with an entity under such process to change such enrollment to another managed care entity during a period (of at least 90 days) after the effective date of the enrollment; and

''(D) may provide for consideration of factors such as quality, geographic proximity, continuity of providers, and capacity of the plan when conducting such process.

''(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

''(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with a managed care entity with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the entity as of the first day of the month in which the individual is again eligible for such assistance, and may consider factors such as quality, geographic proximity, continuity of providers, and capacity of the plan when conducting such reenrollment.

''(2) CONDITIONS.—Paragraph (1) shall only apply if—

''(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the managed care entity;

''(B) the managed care entity continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month; and

''(C) the managed care entity complies with the applicable requirements of this part.

''(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to a managed care entity of any reenrollment of an individual under this subsection.

''(c) STATE OPTION OF MINIMUM ENROLLMENT PERIOD.—

''(1) IN GENERAL.—In the case of an individual who is enrolled with a managed care entity under this part and who would (but for this subsection) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in paragraph (2)), the State plan under this title may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but, except for benefits furnished under section 1902(a)(23)(B), only with respect to such benefits provided to the individual as an enrollee of such entity.

''(2) MINIMUM ENROLLMENT PERIOD DEFINED.—For purposes of paragraph (1), the term 'minimum enrollment period' means, with respect to an individual's enrollment with an entity under a State plan, a period, established by the State, of not more than 6 months beginning on the date the individual's enrollment with the entity becomes effective, except that a State may extend such period for up to a total of 12 months in the case of an individual's enrollment with a managed care entity (as defined in section 1950(a)(1)) so long as such extension is done uniformly for all individuals enrolled with all such entities.

''(d) OTHER ENROLLMENT-RELATED PROVISIONS.—

''(1) NONDISCRIMINATION.—A managed care entity may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollment of individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

''(2) TERMINATION OF ENROLLMENT.—

''(A) IN GENERAL.—The State, enrollment broker, and managed care entity (if any) shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the entity to terminate such enrollment for cause at any time, and without cause during the 90-day period beginning on the date the individual receives notice of enrollment and at least every 12 months thereafter, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

''(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with a managed care entity on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion or pursuant to the imposition against the managed care entity of the sanction described in section 1949(b)(3) shall be considered to terminate such enrollment for cause.

''(C) NOTICE OF TERMINATION.—

''(i) NOTICE TO STATE.—

''(I) BY INDIVIDUALS.—Each individual terminating enrollment with a managed care entity under subparagraph (A) shall do so by

providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of a managed care entity.

''(II) BY ORGANIZATIONS.—Any managed care entity which receives notice of an individual's termination of enrollment with such entity through receipt of such notice at an office of a managed care entity shall provide timely notice of the termination to the State agency administering the State plan under this title.

''(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with a managed care entity under clause (i) shall provide timely notice of the termination to such entity.

''(3) PROVISION OF INFORMATION.—

''(A) IN GENERAL.—Each State, enrollment broker, or managed care organization shall provide all enrollment notices and informational and instructional materials in a manner and form which may be easily understood by enrollees of the entity who are eligible for medical assistance under the State plan under this title, including enrollees and potential enrollees who are blind, deaf, disabled, or cannot read or understand the English language.

''(B) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care organization shall—

''(i) upon request, make the information described in section 1945(e)(1)(A)available to enrollees and potential enrollees in the organization's service area; and

''(ii) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the organization that are covered either directly or through a method of referral and prior authorization.

''(e) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this part, the term 'special needs individual' means any of the following individuals:

''(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who—

''(A) is eligible for supplemental security income under title XVI;

''(B) is described under section 501(a)(1)(D);

''(C) is a child described in section 1902(e)(3);

''(D) is receiving services under a program under part B or part E of title IV; or

''(E) is not described in any preceding subparagraph but is otherwise considered a child with special health care needs who is adopted, in foster care, or otherwise in an out-of-home placement.

''(2) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including—

''(A) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

''(B) an individual who is a resident in transitional housing.

''(3) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 330(g)(3) of the Public Health Service Act), or the spouse or dependent of such a worker.

''(4) INDIANS.—An Indian (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c))).

''(5) MEDICARE BENEFICIARIES.—A qualified medicare beneficiary (as defined in section 1905(p)(1)) or an individual otherwise eligible for benefits under title XVIII.

''(6) DISABLED INDIVIDUALS.—Individuals who are disabled (as determined under section 1614(a)(3)).

''(7) PERSONS WITH AIDS OR HIV INFECTION.—An individual with acquired immune deficiency syndrome (AIDS) or who has been determined to be infected with the HIV virus.

**''SEC. 1942. BENEFICIARY ACCESS TO SERVICES GENERALLY.**

''(a) ACCESS TO SERVICES.—

''(1) IN GENERAL.—Each managed care entity shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such entity and the State under section 1941(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

''(2) PRIMARY-CARE-PROVIDER-TO-ENROLLEE RATIO AND MAXIMUM TRAVEL TIME.—Each such entity shall assure adequate access to primary care services by meeting standards, established by the Secretary, relating to the maximum ratio of enrollees under this title to full-time-equivalent primary care providers available to serve such enrollees and to maximum travel time for such enrollees to access such providers. The Secretary may permit such a maximum ratio to vary depending on the area and population served. Such standards shall be based on standards commonly applied in the commercial market, commonly used in accreditation of managed care organizations, and standards used in the approval of waiver applications under section 1115, and shall be consistent with the requirements under section 1876(c)(4)(A).

''(b) OBSTETRICAL AND GYNECOLOGICAL CARE.—

''(1) IN GENERAL.—A managed care entity may not require prior authorization by the individual's primary care provider or otherwise restrict the individual's access to gynecological and obstetrical care provided by a participating provider who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and may treat the ordering of other obstetrical and gynecological care by such a participating provider as the prior authorization of the primary care provider with respect to such care under the coverage.

''(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

''(c) SPECIALTY CARE.—

''(1) REFERRAL TO SPECIALTY CARE FOR ENROLLEES REQUIRING TREATMENT BY SPECIALISTS.—

''(A) IN GENERAL.—In the case of an enrollee under a managed care entity and who has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, the entity shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

''(B) SPECIALIST DEFINED.—For purposes of this subsection, the term 'specialist' means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, an appropriate pediatric specialist) to provide high quality care in treating the condition.

''(C) CARE UNDER REFERRAL.—Care provided pursuant to such referral under subparagraph (A) shall be—

''(i) pursuant to a treatment plan (if any) developed by the specialist and approved by the entity, in consultation with the designated primary care provider or specialist and the enrollee (or the enrollee's designee), and

''(ii) in accordance with applicable quality assurance and utilization review standards of the entity.

Nothing in this subsection shall be construed as preventing such a treatment plan for an enrollee from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

''(D) REFERRALS TO PARTICIPATING PROVIDERS.—An entity is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the entity does not have an appropriate specialist that is available and accessible to treat the enrollee's condition and that is a participating provider with respect to such treatment.

''(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If an entity refers an enrollee to a nonparticipating specialist, services provided pursuant to the approved treatment plan shall be provided at no additional cost to the enrollee beyond what the enrollee would otherwise pay for services received by such a specialist that is a participating provider.

''(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

''(A) IN GENERAL.—A managed care entity shall have a procedure by which a new enrollee upon enrollment, or an enrollee upon diagnosis, with an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the enrollee's primary and specialty care. If such an enrollee's care would most appropriately be coordinated by such a specialist, the entity shall refer the enrollee to such specialist.

''(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the enrollee without a referral from the enrollee's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the enrollee's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

''(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term 'special condition' means a physical and mental condition or disease that—

''(i) is life-threatening, degenerative, or disabling, and

''(ii) requires specialized medical care over a prolonged period of time.

''(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) shall apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

''(3) STANDING REFERRALS.—

''(A) IN GENERAL.—A managed care entity shall have a procedure by which an enrollee who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the issuer, or the primary care provider in consultation with the medical director of the entity and the specialist (if any), determines that such a standing referral is appropriate, the entity shall make such a referral to such a specialist.

''(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) shall apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

''(d) TIMELY DELIVERY OF SERVICES.—Each managed care entity shall respond to requests from enrollees for the delivery of medical assistance in a manner which—

''(1) makes such assistance—

''(A) available and accessible to each such individual, within the area served by the entity, with reasonable promptness and in a manner which assures continuity; and

''(B) when medically necessary, available and accessible 24 hours a day and 7 days a week; and

''(2) with respect to assistance provided to such an individual other than through the entity, or without prior authorization, in the case of a primary care case management provider, provides for reimbursement to the individual (if applicable under the contract between the State and the entity) if—

''(A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and meet the requirements of section 1943; and

''(B) it was not reasonable given the circumstances to obtain the services through the entity, or, in the case of a primary care case management provider, with prior authorization.

''(e) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care organization shall establish an internal grievance procedure under which an enrollee who is eligible for medical assistance under the State plan under this title, or a provider on behalf of such an enrollee, may challenge the denial of coverage of or payment for such assistance.

''(f) INFORMATION ON BENEFIT CARVE OUTS.—Each managed care entity shall inform each enrollee, in a written and prominent manner, of any benefits to which the enrollee may be entitled to medical assistance under this title but which are not made available to the enrollee through the entity. Such information shall include information on where and how such enrollees may access benefits not made available to the enrollee through the entity.

''(g) DUE PROCESS REQUIREMENTS FOR MANAGED CARE ENTITIES.—

''(1) DENIAL OF OR UNREASONABLE DELAY IN DETERMINING COVERAGE AS GROUNDS FOR HEARING.—If a managed care entity (or entity acting an agreement with a managed care entity)—

''(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

''(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a medicaid managed care organization, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation,

the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a fair hearing before, and shall be provided a timely decision by, the State agency administering the State plan under this title in accordance with section 1902(a)(3). Such decisions shall be rendered as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 72 hours in the case of hearings on decisions regarding urgent care and 5 days in the case of all other hearings.

''(2) COMPLETION OF INTERNAL GRIEVANCE PROCEDURE.—Nothing in this subsection shall require completion of an internal grievance procedure if the procedure does not provide for timely review of health needs considered by the enrollee's health care provider to be of an urgent nature or is not otherwise consistent with the requirements for such procedures under section 1876(c).

''(h) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—

''(1) IN GENERAL.—Subject to paragraph (3), each medicaid managed care organization shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the organization, with respect to a service area—

''(A) has the capacity to serve the expected enrollment in such service area;

''(B) offers an appropriate range of services for the population expected to be enrolled in such service area, including transportation services and translation services consisting of the principal languages spoken in the service area;

''(C) maintains a sufficient number, mix, and geographic distribution of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the organization to the same extent that such services are available to individuals enrolled in the organization who are not recipients of medical assistance under the State plan under this title;

''(D) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day;

''(E) provides preventive and primary care services in locations that are readily accessible to members of the community;

''(F) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible; and

''(G) complies with such other requirements relating to access to care as the Secretary or the State may impose.

''(2) PROOF OF ADEQUATE PRIMARY CARE CAPACITY AND SERVICES.—Subject to paragraph (3), a medicaid managed care organization that contracts with a reasonable number of primary care providers (as determined by the Secretary) and whose primary care membership includes a reasonable number (as so determined) of the following providers will be deemed to have satisfied the requirements of paragraph (1):

''(A) Rural health clinics, as defined in section 1905(l)(1).

''(B) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

''(C) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

''(3) SUFFICIENT PROVIDERS OF SPECIALIZED SERVICES.—Notwithstanding paragraphs (1) and (2), a medicaid managed care organization may not be considered to have satisfied the requirements of paragraph (1) if the organization does not have a sufficient number (as determined by the Secretary) of providers of specialized services, including perinatal and pediatric specialty care, to ensure that such services are available and accessible.

''(i) COMPLIANCE WITH CERTAIN MATERNITY AND MENTAL HEALTH REQUIREMENTS.—Each medicaid managed care organization shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

''(j) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

''(1) IN GENERAL.—In the case of an enrollee of a managed care entity who is a child described in section 1941(e)(1) or who has special health care needs (as defined in paragraph (3))—

''(A) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee by a program described in subsection (c)(1) or paragraph (3), the managed care entity shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either—

''(i) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the managed care entity to provide such assistance; or

''(ii) if appropriate services are not available through the managed care entity, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the managed care entity; and

''(B) the managed care entity shall require each health care provider with whom the managed care entity has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

''(2) PRIOR AUTHORIZATION.—An enrollee referred for treatment under paragraph (1)(A)(i), or permitted to seek treatment outside of or apart from the managed care entity under paragraph (1)(A)(ii) shall be deemed to have obtained any prior authorization required by the entity.

''(3) CHILD WITH SPECIAL HEALTH CARE NEEDS.—For purposes of paragraph (1), a child has special health care needs if the child is receiving services under—

''(A) a program administered under part B or part H of the Individuals with Disabilities Education Act; or

''(B) any other program for children with special health care needs identified by the Secretary.

**''SEC. 1943. BENEFICIARY ACCESS TO EMERGENCY CARE.**

''(a) PROHIBITION OF CERTAIN RESTRICTIONS ON COVERAGE OF EMERGENCY SERVICES.—

''(1) IN GENERAL.—If a managed care entity provides any benefits under a State plan with respect to emergency services (as defined in paragraph (2)(B)), the entity shall cover emergency services furnished to an enrollee—

''(A) without the need for any prior authorization determination,

''(B) subject to paragraph (3), whether or not the physician or provider furnishing such services is a participating physician or provider with respect to such services, and

''(C) subject to paragraph (3), without regard to any other term or condition of such coverage (other than an exclusion of benefits).

''(2) EMERGENCY SERVICES; EMERGENCY MEDICAL CONDITION.—For purposes of this section—

''(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

''(ii) serious impairment to bodily functions, or

''(iii) serious dysfunction of any bodily organ or part.

''(B) EMERGENCY SERVICES.—The term 'emergency services' means—

''(i) a medical screening examination (as required under section 1867) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition (as defined in subparagraph (A)), and

''(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as

are required under section 1867 to stabilize the patient.

''(C) TRAUMA AND BURN CENTERS.—The provisions of clause (ii) of subparagraph (B) apply to a trauma or burn center, in a hospital, that—

''(i) is designated by the State, a regional authority of the State, or by the designee of the State, or

''(ii) is in a State that has not made such designations and meets medically recognized national standards.

''(3) APPLICATION OF NETWORK RESTRICTION PERMITTED IN CERTAIN CASES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if a managed care entity in relation to benefits provided under this title denies, limits, or otherwise differentiates in benefits or payment for benefits other than emergency services on the basis that the physician or provider of such services is a nonparticipating physician or provider, the entity may deny, limit, or differentiate in coverage or payment for emergency services on such basis.

''(B) NETWORK RESTRICTIONS NOT PERMITTED IN CERTAIN EXCEPTIONAL CASES.—The denial or limitation of, or differentiation in, coverage or payment of benefits for emergency services under subparagraph (A) shall not apply in the following cases:

''(i) CIRCUMSTANCES BEYOND CONTROL OF ENROLLEE.—The enrollee is unable to go to a participating hospital for such services due to circumstances beyond the control of the enrollee (as determined consistent with guidelines and subparagraph (C)).

''(ii) LIKELIHOOD OF AN ADVERSE HEALTH CONSEQUENCE BASED ON LAYPERSON'S JUDGMENT.—A prudent layperson possessing an average knowledge of health and medicine could reasonably believe that, under the circumstances and consistent with guidelines, the time required to go to a participating hospital for such services could result in any of the adverse health consequences described in a clause of subsection (a)(2)(A).

''(iii) PHYSICIAN REFERRAL.—A participating physician or other person authorized by the plan refers the enrollee to an emergency department of a hospital and does not specify an emergency department of a hospital that is a participating hospital with respect to such services.

''(C) APPLICATION OF 'BEYOND CONTROL' STANDARDS.—For purposes of applying subparagraph (B)(i), receipt of emergency services from a nonparticipating hospital shall be treated under the guidelines as being 'due to circumstances beyond the control of the enrollee' if any of the following conditions are met:

''(i) UNCONSCIOUS.—The enrollee was unconscious or in an otherwise altered mental state at the time of initiation of the services.

''(ii) AMBULANCE DELIVERY.—The enrollee was transported by an ambulance or other emergency vehicle directed by a person other than the enrollee to the nonparticipating hospital in which the services were provided.

''(iii) NATURAL DISASTER.—A natural disaster or civil disturbance prevented the enrollee from presenting to a participating hospital for the provision of such services.

''(iv) NO GOOD FAITH EFFORT TO INFORM OF CHANGE IN PARTICIPATION DURING A CONTRACT YEAR.—The status of the hospital changed from a participating hospital to a nonparticipating hospital with respect to emergency services during a contract year and the entity failed to make a good faith effort to notify the enrollee involved of such change.

''(v) OTHER CONDITIONS.—There were other factors (such as those identified in guidelines) that prevented the enrollee from controlling selection of the hospital in which the services were provided.

''(b) ASSURING COORDINATED COVERAGE OF MAINTENANCE CARE AND POST-STABILIZATION CARE.—

''(1) IN GENERAL.—In the case of an individual who is enrolled with a managed care entity and who has received emergency services pursuant to a screening evaluation conducted (or supervised) by a treating physician at a hospital that is a nonparticipating provider with respect to emergency services, if—

''(A) pursuant to such evaluation, the physician identifies post-stabilization care (as defined in paragraph (3)(B)) that is required by the enrollee,

''(B) the coverage through the entity under this title provides benefits with respect to the care so identified and the coverage requires (but for this subsection) an affirmative prior authorization determination as a condition of coverage of such care, and

''(C) the treating physician (or another individual acting on behalf of such physician) initiates, not later than 30 minutes after the time the treating physician determines that the condition of the enrollee is stabilized, a good faith effort to contact a physician or other person authorized by the entity (by telephone or other means) to obtain an affirmative prior authorization determination with respect to the care,

then, without regard to terms and conditions specified in paragraph (2) the entity shall cover maintenance care (as defined in paragraph (3)(A)) furnished to the enrollee during the period specified in paragraph (4) and shall cover post-stabilization care furnished to the enrollee during the period beginning under paragraph (5) and ending under paragraph (6).

''(2) TERMS AND CONDITIONS WAIVED.—The terms and conditions (of coverage) described in this paragraph that are waived under paragraph (1) are as follows:

''(A) The need for any prior authorization determination.

''(B) Any limitation on coverage based on whether or not the physician or provider furnishing the care is a participating physician or provider with respect to such care.

''(C) Any other term or condition of the coverage (other than an exclusion of benefits and other than a requirement relating to medical necessity for coverage of benefits).

''(3) MAINTENANCE CARE AND POST-STABILIZATION CARE DEFINED.—In this subsection:

''(A) MAINTENANCE CARE.—The term 'maintenance care' means, with respect to an individual who is stabilized after provision of emergency services, medically necessary items and services (other than emergency services) that are required by the individual to ensure that the individual remains stabilized during the period described in paragraph (4).

''(B) POST-STABILIZATION CARE.—The term 'post-stabilization care' means, with respect to an individual who is determined to be stable pursuant to a medical screening examination or who is stabilized after provision of emergency services, medically necessary items and services (other than emergency services and other than maintenance care) that are required by the individual.

''(4) PERIOD OF REQUIRED COVERAGE OF MAINTENANCE CARE.—The period of required coverage of maintenance care of an individual under this subsection begins at the time of the request (or the initiation of the good faith effort to make the request) under paragraph (1)(C) and ends when—

''(A) the individual is discharged from the hospital;

''(B) a physician (designated by the managed care entity involved) and with privileges at the hospital involved arrives at the emergency department of the hospital and assumes responsibility with respect to the treatment of the individual; or

''(C) the treating physician and the entity agree to another arrangement with respect to the care of the individual.

''(5) WHEN POST-STABILIZATION CARE REQUIRED TO BE COVERED.—

''(A) WHEN TREATING PHYSICIAN UNABLE TO COMMUNICATE REQUEST.—If the treating physician or other individual makes the good faith effort to request authorization under paragraph (1)(C) but is unable to communicate the request directly with an authorized person referred to in such paragraph within 30 minutes after the time of initiating such effort, then post-stabilization care is required to be covered under this subsection beginning at the end of such 30-minute period.

''(B) WHEN ABLE TO COMMUNICATE REQUEST, AND NO TIMELY RESPONSE.—

''(i) IN GENERAL.—If the treating physician or other individual under paragraph (1)(C) is able to communicate the request within the 30-minute period described in subparagraph (A), the post-stabilization care requested is required to be covered under this subsection beginning 30 minutes after the time when the entity receives the request unless a person authorized by the entity involved communicates (or makes a good faith effort to communicate) a denial of the request for the prior authorization determination within 30 minutes of the time when the entity receives the request and the treating physician does not request under clause (ii) to communicate directly with an authorized physician concerning the denial.

''(ii) REQUEST FOR DIRECT PHYSICIAN-TO-PHYSICIAN COMMUNICATION CONCERNING DENIAL.—If a denial of a request is communicated under clause (i), the treating physician may request to communicate respecting the denial directly with a physician who is authorized by the entity to deny or affirm such a denial.

''(C) WHEN NO TIMELY RESPONSE TO REQUEST FOR PHYSICIAN-TO-PHYSICIAN COMMUNICATION.—If a request for physician-to-physician communication is made under subparagraph (B)(ii), the post-stabilization care requested is required to be covered under this subsection beginning 30 minutes after the time when the entity receives the request from a treating physician unless a physician, who is authorized by the entity to reverse or affirm the initial denial of the care, communicates (or makes a good faith effort to communicate) directly with the treating physician within such 30-minute period.

''(D) DISAGREEMENTS OVER POST-STABILIZATION CARE.—If, after a direct physician-to-physician communication under subparagraph (C), the denial of the request for the post-stabilization care is not reversed and the treating physician communicates to the entity involved a disagreement with such decision, the post-stabilization care requested is required to be covered under this subsection beginning as follows:

''(i) DELAY TO ALLOW FOR PROMPT ARRIVAL OF PHYSICIAN ASSUMING RESPONSIBILITY.—If the issuer communicates that a physician (designated by the entity) with privileges at the hospital involved will arrive promptly (as determined under guidelines) at the emergency department of the hospital in order to assume responsibility with respect to the treatment of the enrollee involved, the required coverage of the post-stabilization care begins after the passage of such time period as would allow the prompt arrival of such a physician.

''(ii) OTHER CASES.—If the entity does not so communicate, the required coverage of

the post-stabilization care begins immediately.

''(6) NO REQUIREMENT OF COVERAGE OF POST-STABILIZATION CARE IF ALTERNATE PLAN OF TREATMENT.—

''(A) IN GENERAL.—Coverage of post-stabilization care is not required under this subsection with respect to an individual when—

''(i) subject to subparagraph (B), a physician (designated by the entity involved) and with privileges at the hospital involved arrives at the emergency department of the hospital and assumes responsibility with respect to the treatment of the individual; or

''(ii) the treating physician and the entity agree to another arrangement with respect to the post-stabilization care (such as an appropriate transfer of the individual involved to another facility or an appointment for timely followup treatment for the individual).

''(B) SPECIAL RULE WHERE ONCE CARE INITIATED.—Required coverage of requested post-stabilization care shall not end by reason of subparagraph (A)(i) during an episode of care (as determined by guidelines) if the treating physician initiated such care (consistent with a previous paragraph) before the arrival of a physician described in such subparagraph.

''(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) preventing a managed care entity from authorizing coverage of maintenance care or post-stabilization care in advance or at any time; or

''(B) preventing a treating physician or other individual described in paragraph (1)(C) and such an entity from agreeing to modify any of the time periods specified in paragraphs (5) as it relates to cases involving such persons.

''(c) INFORMATION ON ACCESS TO EMERGENCY SERVICES.—A managed care entity, to the extent the entity offers health insurance coverage, shall provide education to enrollees on—

''(1) coverage of emergency services (as defined in subsection (a)(2)(B)) by the entity in accordance with the provisions of this section,

''(2) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent,

''(3) any cost sharing applicable to emergency services,

''(4) the process and procedures of the plan for obtaining emergency services, and

''(5) the locations of—

''(A) emergency departments, and

''(B) other settings,

in which participating physicians and hospitals provide emergency services and post-stabilization care.

''(d) GENERAL DEFINITIONS.—For purposes of this section:

''(1) COST SHARING.—The term 'cost sharing' means any deductible, coinsurance amount, copayment or other out-of-pocket payment (other than premiums or enrollment fees) that a managed care entity issuer imposes on enrollees with respect to the coverage of benefits.

''(2) GOOD FAITH EFFORT.—The term 'good faith effort' has the meaning given such term in guidelines and requires such appropriate documentation as is specified under such guidelines.

''(3) GUIDELINES.—The term 'guidelines' means guidelines established by the Secretary after consultation with an advisory panel that includes individuals representing emergency physicians, managed care entities, including at least one health maintenance organization, hospitals, employers, the States, and consumers.

''(4) PRIOR AUTHORIZATION DETERMINATION.—The term 'prior authorization determination' means, with respect to items and services for which coverage may be provided by a managed are entity, a determination (before the provision of the items and services and as a condition of coverage of the items and services under the coverage) of whether or not such items and services will be covered under the coverage.

''(5) STABILIZE.—The term 'to stabilize' means, with respect to an emergency medical condition, to provide (in complying with section 1867 of the Social Security Act) such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from the facility.

''(6) STABILIZED.—The term 'stabilized' means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur before an individual can be transferred from the facility, in compliance with the requirements of section 1867 of the Social Security Act.

''(7) TREATING PHYSICIAN.—The term 'treating physician' includes a treating health care professional who is licensed under State law to provide emergency services other than under the supervision of a physician.

**''SEC. 1944. OTHER BENEFICIARY PROTECTIONS.**

''(a) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF MANAGED CARE ENTITIES AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH ENTITIES.—Each managed care entity shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the entity may not be held liable—

''(1) for the debts of the managed care entity, in the event of the medicaid managed care organization's insolvency;

''(2) for services provided to the individual—

''(A) in the event of the medicaid managed care organization failing to receive payment from the State for such services; or

''(B) in the event of a health care provider with a contractual or other arrangement with the medicaid managed care organization failing to receive payment from the State or the managed care entity for such services; or

''(3) for the debts of any health care provider with a contractual or other arrangement with the medicaid managed care organization to provide services to the individual, in the event of the insolvency of the health care provider.

''(b) PROTECTION OF BENEFICIARIES AGAINST BALANCE BILLING THROUGH SUBCONTRACTORS.—

''(1) IN GENERAL.—Any contract between a managed care entity that has an agreement with a State under this title and another entity under which the entity (or any other entity pursuant to the contract) provides directly or indirectly for the provision of services to beneficiaries under the agreement with the State shall include such provisions as the Secretary may require in order to assure that the entity complies with balance billing limitations and other requirements of this title (such as limitation on withholding of services) as they would apply to the managed care entity if such entity provided such services directly and not through a contract with another entity.

''(2) APPLICATION OF SANCTIONS FOR VIOLATIONS.—The provisions of section 1128A(b)(2)(B) and 1128B(d)(1) shall apply with respect to entities contracting directly or indirectly with a managed care entity (with a contract with a State under this title) for the provision of services to beneficiaries under such a contract in the same manner as such provisions would apply to the managed care entity if it provided such services directly and not through a contract with another entity.

**''SEC. 1945. ASSURING QUALITY CARE.**

''(a) EXTERNAL INDEPENDENT REVIEW OF MANAGED CARE ENTITY ACTIVITIES.—

''(1) REVIEW OF MEDICAID MANAGED CARE ORGANIZATION CONTRACT.—

''(A) IN GENERAL.—Except as provided in paragraph (2), each medicaid managed care organization shall be subject to an annual external independent review of the quality outcomes and timeliness of, and access to, the items and services specified in such organization's contract with the State under section 1941(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care organization provides such services in a timely manner.

''(B) CONTENTS OF REVIEW.—An external independent review conducted under this subsection shall include—

''(i) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

''(ii) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

''(iii) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

''(iv) other activities as prescribed by the Secretary or the State.

''(C) USE OF PROTOCOLS.—An external independent review conducted under this subsection on and after January 1, 1999, shall use protocols that have been developed, tested, and validated by the Secretary and that are at least as rigorous as those used by the National Committee on Quality Assurance as of the date of the enactment of this section.

''(D) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this paragraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care organization, except that the results may not be made available in a manner that discloses the identity of any individual patient.

''(2) DEEMED COMPLIANCE.—

''(A) MEDICARE ORGANIZATIONS.—The requirements of paragraph (1) shall not apply with respect to a medicaid managed care organization if the organization is an eligible organization with a contract in effect under section 1876.

''(B) PRIVATE ACCREDITATION.—

''(i) IN GENERAL.—The requirements of paragraph (1) shall not apply with respect to a medicaid managed care organization if —

''(I) the organization is accredited by an organization meeting the requirements described in subparagraph (C)); and

''(II) the standards and process under which the organization is accredited meet such requirements as are established under clause (ii), without regard to whether or not the time requirement of such clause is satisfied.

''(ii) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall specify requirements for the standards and process under which a medicaid managed care organization is accredited by an organization meeting the requirements of subparagraph (B).

''(C) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this subparagraph if the organization—

''(i) is a private, nonprofit organization;

''(ii) exists for the primary purpose of accrediting managed care organizations or health care providers; and

''(iii) is independent of health care providers or associations of health care providers.

''(3) REVIEW OF PRIMARY CARE CASE MANAGEMENT PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1941(a)(1)(B).

''(4) USE OF VALIDATION SURVEYS.—The Secretary shall conduct surveys each year to validate external reviews of at least 5 percent of the number of managed care entities in the year. In conducting such surveys the Secretary shall use the same protocols as were used in preparing the external reviews. If an external review finds that an individual managed care entity meets applicable requirements, but the Secretary determines that the entity does not meet such requirements, the Secretary's determination as to the entity's noncompliance with such requirements is binding and supersedes that of the previous survey.

''(b) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to subsection (a) and shall monitor the effectiveness of the State's monitoring and followup activities required under section 1942(b)(1). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of such section are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

''(c) PROVIDING INFORMATION ON SERVICES.—

''(1) REQUIREMENTS FOR MEDICAID MANAGED CARE ORGANIZATIONS.—

''(A) INFORMATION TO THE STATE.—Each medicaid managed care organization shall provide to the State (at least at such frequency as the Secretary may require), complete and timely information concerning the following:

''(i) The services that the organization provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

''(ii) The identity, locations, qualifications, and availability of participating health care providers.

''(iii) The rights and responsibilities of enrollees.

''(iv) The services provided by the organization which are subject to prior authorization by the organization as a condition of coverage (in accordance with subsection (d)).

''(v) The procedures available to an enrollee and a health care provider to appeal the failure of the organization to cover a service.

''(vi) The performance of the organization in serving individuals eligible for medical assistance under the State plan under this title.

Such information shall be provided in a form consistent with the reporting of similar information by eligible organizations under section 1876.

''(2) REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each primary care case management provider shall—

''(A) provide to the State (at least at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case management provider provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title;

''(B) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required;

''(C) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case management provider that are covered either directly or through a method of referral and prior authorization; and

''(D) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

''(3) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE ORGANIZATIONS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each managed care entity shall provide the State with aggregate encounter data for all items and services, including early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State and the Secretary.

''(d) CONDITIONS FOR PRIOR AUTHORIZATION.—Subject to section 1943, a managed care entity may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval provides that such decisions are made in a timely manner, depending upon the urgency of the situation.

''(e) PATIENT ENCOUNTER DATA.—Each medicaid managed care organization shall maintain sufficient patient encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27) and shall submit such data to the State or the Secretary upon request. The medicaid managed care organization shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

''(f) INCENTIVES FOR HIGH QUALITY MANAGED CARE ENTITIES.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), managed care entities that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such entities. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.

**''SEC. 1946. PROTECTIONS FOR PROVIDERS.**

''(a) INFORMATION TO HEALTH CARE PROVIDERS.—Each medicaid managed care organization shall upon request, make the information described in section 1945(c)(1)(A) available to participating health care providers.

''(b) TIMELINESS OF PAYMENT.—A medicaid managed care organization shall make payment to health care providers for items and services which are subject to the contract under section 1941(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the entity on a timely basis consistent with section 1943 and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the managed care entity agree to an alternate payment schedule.

''(c) APPLICATION OF MEDICARE PROHIBITION OF RESTRICTIONS ON PHYSICIANS' ADVICE AND COUNSEL TO ENROLLEES.—A managed care entity shall comply with the same prohibitions on any restrictions relating to physicians' advice and counsel to individuals as apply to eligible organizations under section 1876.

''(d) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care organization shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care organization shall meet the requirements of section 1876(i)(8).

''(e) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—Each medicaid managed care organization that enters into a written provider participation agreement with a provider described in section 1942(h)(2) shall—

''(1) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care organization includes in its agreements with other participating providers with respect to—

''(A) the scope of covered services for which payment is made to the provider;

''(B) the assignment of enrollees by the organization to the provider;

''(C) the limitation on financial risk or availability of financial incentives to the provider;

''(D) accessibility of care;

''(E) professional credentialing and recredentialing;

''(F) licensure;

''(G) quality and utilization management;

''(I) confidentiality of patient records;

''(J) grievance procedures; and

''(K) indemnification arrangements between the organizations and providers; and

''(2) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.

''(f) PAYMENTS TO FEDERALLY-QUALIFIED HEALTH CENTERS.—Each medicaid managed care organization that has a contract under this title with respect to the provision of services of a federally qualified health center shall provide, at the election of such center, that the organization shall provide payments to such a center for services described in 1905(a)(2)(C) at the rates of payment specified in section 1902(a)(13)(E).

**''SEC. 1947. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE ORGANIZATIONS AND ENTITIES.**

''(a) ADEQUATE RATES.—As a condition of approval of a State plan under this title, a State shall find, determine, and make assurances satisfactory to the Secretary that—

''(1) the rates it pays medicaid managed care organizations for individuals eligible under the State plan are reasonable and adequate to assure access to services meeting professionally recognized quality standards, taking into account—

''(A) the items and services to which the rate applies,

''(B) the eligible population, and

''(C) the rate the State pays providers for such items and services;

''(2) the methodology used to adjust the rate adequately reflects the varying risks associated with individuals actually enrolling in each medicaid managed care organization; and

''(3) it will provide for an annual review of the actuarial soundness of rates by an independent actuary selected by the Secretary and for a copy of the actuary's report on

each such review to be transmitted to the State and the Secretary and made available to the public.

''(b) ANNUAL REPORTS.—As a condition of approval of a State plan under this title, a State shall report to the Secretary, at least annually, on the rates the States pays to medicaid managed care organizations.

**''SEC. 1948. FRAUD AND ABUSE.**

''(a) PROVISIONS APPLICABLE TO MANAGED CARE ENTITIES.—

''(1) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

''(A) IN GENERAL.—A managed care entity may not knowingly—

''(i) have a person described in subparagraph (C) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the organization's equity; or

''(ii) have an employment, consulting, or other agreement with a person described in such subparagraph for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

''(B) EFFECT OF NONCOMPLIANCE.—If a State finds that a managed care entity is not in compliance with clause (i) or (ii) of subparagraph (A), the State—

''(i) shall notify the Secretary of such noncompliance;

''(ii) may continue an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

''(iii) may not renew or otherwise extend the duration of an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

''(C) PERSONS DESCRIBED.—A person is described in this subparagraph if such person—

''(i) is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal acquisition regulation or from participating in nonprocurement activities under regulations issued pursuant to Executive Order 12549; or

''(ii) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subparagraph (A).

''(2) RESTRICTIONS ON MARKETING.—

''(A) DISTRIBUTION OF MATERIALS.—

''(i) IN GENERAL.—A managed care entity may not distribute directly or through any agent or independent contractor marketing materials within any State—

''(I) without the prior approval of the State; and

''(II) that contain false or materially misleading information.

''(ii) CONSULTATION IN REVIEW OF MARKET MATERIALS.—In the process of reviewing and approving such materials, the State shall provide for consultation with a medical care advisory committee.

''(iii) PROHIBITION.—The State may not enter into or renew a contract with a managed care entity for the provision of services to individuals enrolled under the State plan under this title if the State determines that the entity distributed directly or through any agent or independent contractor marketing materials in violation of clause (i).

''(B) SERVICE MARKET.—A managed care entity shall distribute marketing materials to the entire service area of such entity.

''(C) PROHIBITION OF TIE-INS.—A managed care entity, or any agency of such entity, may not seek to influence an individual's enrollment with the entity in conjunction with the sale of any other insurance.

''(D) PROHIBITING MARKETING FRAUD.—Each managed care entity shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate oral and written and sufficient information to make an informed decision whether or not to enroll.

''(E) PROHIBITION OF COLD CALL MARKETING.—Each managed care entity shall not, directly or indirectly, conduct door-to-door, telephonic, or other 'cold call' marketing of enrollment under this title.

''(b) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE ORGANIZATIONS.—

''(1) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care organization may not enter into a contract with any State under section 1941(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such organizations or to the default enrollment process described in section 1941(a)(1)(F) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

''(2) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any requirements applicable under section 1902(a)(27) or 1902(a)(35), a medicaid managed care organization shall—

''(A) report to the State (and to the Secretary upon the Secretary's request) such financial information as the State or the Secretary may require to demonstrate that—

''(i) the organization has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

''(ii) the organization uses the funds paid to it by the State and the Secretary for activities consistent with the requirements of this title and the contract between the State and organization; and

''(iii) the organization does not place an individual physician, physician group, or other health care provider at substantial risk (as determined by the Secretary) for services not provided by such physician, group, or health care provider, by providing adequate protection (as determined by the Secretary) to limit the liability of such physician, group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors;

''(B) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the organization (and of any subcontractor) relating to the information reported pursuant to subparagraph (A) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a);

''(C) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the organization and a party in interest (as defined in section 1318(b) of such Act);

''(D) agree to make available to its enrollees upon reasonable request—

''(i) the information reported pursuant to subparagraph (A); and

''(ii) the information required to be disclosed under sections 1124 and 1126;

''(E) comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members); and

''(F) notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

Each State is required to conduct audits on the books and records of at least 1 percent of the number of medicaid managed care organizations operating in the State.

''(3) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

''(A) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care organization shall make adequate provision against the risk of insolvency.

''(B) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in subparagraph (A), the Secretary shall consider solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876.

''(C) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

''(4) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care organization shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing the most recent audited financial statement of the organization's net earnings and consistent with generally accepted accounting principles.

''(c) DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION.—Each medicaid managed care organization shall provide for disclosure of information in accordance with section 1124.

''(d) DISCLOSURE OF TRANSACTION INFORMATION.—

''(1) IN GENERAL.—Each medicaid managed care organization which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) shall report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General a description of transactions between the organization and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

''(A) Any sale or exchange, or leasing of any property between the organization and such a party.

''(B) Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

''(C) Any lending of money or other extension of credit between the organization and such a party.

The State or Secretary may require that information reported respecting a organization which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

''(2) Each such organization shall make the information reported pursuant to paragraph (1) available to its enrollees upon reasonable request.

''(e) CONTRACT OVERSIGHT.—

''(1) IN GENERAL.—The Secretary must provide prior review and approval for contracts under this part with a medicaid managed care organization providing for expenditures under this title in excess of $1,000,000.

''(2) INSPECTOR GENERAL REVIEW.—As part of such approval process, the Inspector General in the Department of Health and Human Services, effective October 1, 1997, shall make a determination (to the extent practicable) as to whether persons with an ownership interest (as defined in section 1124(a)(3)) or an officer, director, agent, or managing employee (as defined in section 1126(b)) of the organization are or have been described in subsection (a)(1)(C) based on a ground relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct or obstruction of an investigation.

''(f) LIMITATION ON AVAILABILITY OF FFP FOR USE OF ENROLLMENT BROKERS.—Amounts expended by a State for the use an enrollment broker in marketing managed care entities to eligible individuals under this title shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan but only if the following conditions are met with respect to the broker:

''(1) The broker is independent of any such entity and of any health care providers (whether or not any such provider participates in the State plan under this title) that provide coverage of services in the same State in which the broker is conducting enrollment activities.

''(2) No person who is an owner, employee, consultant, or has a contract with the broker either has any direct or indirect financial interest with such an entity or health care provider or has been excluded from participation in the program under this title or title XVIII or debarred by any Federal agency, or subject to a civil money penalty under this Act.

''(g) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care organization shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1173(b).

''(h) SECRETARIAL RECOVERY OF FFP FOR CAPITATION PAYMENTS FOR INSOLVENT MANAGED CARE ENTITIES.—The Secretary shall provide for the recovery and offset against amount owed a State under section 1903(a)(1) an amount equal to the amounts paid to the State, for medical assistance provided under such section for expenditures for capitation payments to a managed care entity that becomes insolvent, for services contracted for with, but not provided by, such organization.

**''SEC. 1949. SANCTIONS FOR NONCOMPLIANCE BY MANAGED CARE ENTITIES.**

''(a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with a managed care entity, which the State may impose against a managed care entity with a contract under section 1941(a)(1)(B) if the entity —

''(1) fails substantially to provide medically necessary items and services that are required (under law or under such entity's contract with the State) to be provided to an enrollee covered under the contract;

''(2) imposes premiums or charges on enrollees in excess of the premiums or charges permitted under this title;

''(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by this part, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the entity by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

''(4) misrepresents or falsifies information that is furnished—

''(A) to the Secretary or the State under this part; or

''(B) to an enrollee, potential enrollee, or a health care provider under such sections; or

''(5) fails to comply with the requirements of section 1876(i)(8) or this part.

''(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

''(1) Civil money penalties as follows:

''(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

''(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

''(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

''(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

''(2) The appointment of temporary management to oversee the operation of the medicaid-only managed care entity upon a finding by the State that there was continued egregious behavior by the plan and to assure the health of the entity's enrollees, if there is a need for temporary management while—

''(A) there is an orderly termination or reorganization of the managed care entity; or

''(B) improvements are made to remedy the violations found under subsection (a), except that temporary management under this paragraph may not be terminated until the State has determined that the managed care entity has the capability to ensure that the violations shall not recur.

''(3) Permitting individuals enrolled with the managed care entity to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

''(4) Suspension of default or all enrollment of individuals under this title after the date the Secretary or the State notifies the entity of a determination of a violation of any requirement of this part.

''(5) Suspension of payment to the entity under this title for individuals enrolled after the date the Secretary or State notifies the entity of such a determination and until the Secretary or State is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(c) TREATMENT OF CHRONIC SUBSTANDARD ENTITIES.—In the case of a managed care entity which has repeatedly failed to meet the requirements of sections 1942 through 1946, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

''(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of a managed care entity which has failed to meet the requirements of this part, the State shall have the authority to terminate its contract with such entity under section 1941(a)(1)(B) and to enroll such entity's enrollees with other managed care entities (or to permit such enrollees to receive medical assistance under the State plan under this title other than through a managed care entity).

''(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

''(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that a managed care entity with a contract under section 1941(a)(1)(B) fails to meet any of the requirements of this part.

''(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1941(a)(1)(B) for individuals enrolled after the date the Secretary notifies a managed care entity of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(f) DUE PROCESS FOR MANAGED CARE ENTITIES.—

''(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with a managed care entity under section 1941(a)(1)(B) unless the entity is provided with a hearing prior to the termination.

''(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with a managed care entity which is the subject of a hearing to terminate the entity's contract with the State of the hearing and that the enrollees may immediately disenroll with the entity without cause.

''(3) OTHER PROTECTIONS FOR MANAGED CARE ENTITIES AGAINST SANCTIONS IMPOSED BY STATE.—Before imposing any sanction against a managed care entity other than termination of the entity's contract, the State shall provide the entity with notice and such other due process protections as the State may provide, except that a State may not provide a managed care entity with a pre-termination hearing before imposing the sanction described in subsection (b)(2).

''(4) IMPOSITION OF CIVIL MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

**''SEC. 1950. DEFINITIONS; MISCELLANEOUS PROVISIONS.**

''(a) DEFINITIONS.—For purposes of this title:

''(1) MANAGED CARE ENTITY.—The term 'managed care entity' means—

''(A) a medicaid managed care organization; or

''(B) a primary care case management provider.

''(2) MEDICAID MANAGED CARE ORGANIZATION.—The term 'medicaid managed care organization' means a health maintenance organization, an eligible organization with a contract under section 1876, a provider sponsored network or any other organization which is organized under the laws of a State, has made adequate provision (as determined under standards established for purposes of eligible organizations under section 1876 and through its capitalization or otherwise) against the risk of insolvency, and provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1941(a)(1)(B).

''(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

''(A) IN GENERAL.—The term 'primary care case management provider' means a health care provider that—

''(i) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1941(a)(1)(B);

''(ii) receives payment on a fee-for-service basis (or, in the case of a Federally-qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals;

''(iii) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals; and

''(iv) is not an entity that is at risk.

''(B) AT RISK.—In subparagraph (A)(iv), the term 'at risk' means an entity that—

''(i) has a contract with the State under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual; and

''(ii) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.''.

**SEC. 3. STUDIES AND REPORTS.**

(a) REPORT ON PUBLIC HEALTH SERVICES.—

(1) IN GENERAL.—Not later than January 1, 1998, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of managed care entities (as defined in section 1950(a)(1) of the Social Security Act) on the delivery of and payment for the services traditionally provided through providers described in section 1941(a)(2)(B)(i) of such Act.

(2) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include—

(A) information on the extent to which enrollees with eligible managed care entities seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(B) information on the extent to which the facilities described in such subsection provide services to enrollees with eligible managed care entities without receiving payment;

(C) information on the effectiveness of systems implemented by facilities described in such subsection for educating such enrollees on services that are available through eligible managed care entities with which such enrollees are enrolled;

(D) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(E) recommendations about how to ensure the timely delivery of the services traditionally provided through providers described in section 1941(a)(2)(B)(i) of the Social Security Act to enrollees of managed care entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

(b) REPORT ON PAYMENTS TO HOSPITALS.—

(1) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1998, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under managed care entities under contracts under section 1941(a)(1)(B) of the Social Security Act.

(2) CONTENTS OF REPORT.—The information in the report described in paragraph (1) shall—

(A) be organized by State, type of hospital, type of service, and

(B) include a comparison of rates paid for hospital services under managed care entities with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled with such entities.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1947(b)(2) of such Act.

(d) INDEPENDENT STUDY AND REPORT ON QUALITY ASSURANCE AND ACCREDITATION STANDARDS.—The Institute of Medicine of the National Academy of Sciences shall conduct a study and analysis of the quality assurance programs and accreditation standards applicable to managed care entities operating in the private sector or to such entities that operate under contracts under the medicare program under title XVIII of the Social Security Act to determine if such programs and standards include consideration of the accessibility and quality of the health care items and services delivered under such contracts to low-income individuals.

**SEC. 4. CONFORMING AMENDMENTS.**

(a) REPEAL OF CURRENT REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 1903(m) (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(2) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(A) the day after the date of the expiration of the contract; or

(B) the date which is 1 year after the date of the enactment of this Act.

(b) FEDERAL FINANCIAL PARTICIPATION.—

(1) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MANAGED CARE ENTITIES.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by adding at the end the following sentence: ''Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through a managed care entity (as defined in section 1950(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.''.

(2) FFP FOR EXTERNAL QUALITY REVIEW ORGANIZATIONS.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)(C)) is amended—

(A) by inserting ''(i)'' after ''(C)'', and

(B) by adding at the end the following new clause:

''(ii) 75 percent of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of independent external reviews of managed care entities (as defined in section 1950(a)(1)) by external quality review organizations, but only if such organizations conduct such reviews under protocols approved by the Secretary and only in the case of such organizations that meet standards established by the Secretary relating to the independence of such organizations from agencies responsible for the administration of this title or eligible managed care entities; and''.

(c) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) (42 U.S.C. 1320a-7(b)(6)(C)) is amended—

(1) in clause (i), by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''a managed care entity, as defined in section 1950(a)(1),''; and

(2) in clause (ii), by inserting ''section 1115 or'' after ''approved under''.

(d) STATE PLAN REQUIREMENTS.—Section 1902 (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(30)(C), by striking ''section 1903(m)'' and inserting ''section 1941(a)(1)(B)''; and

(2) in subsection (a)(57), by striking ''hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A))'' and inserting ''or hospice program'';

(3) in subsection (e)(2)(A), by striking ''or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or (6) of section 1903(m) under a contract described in section 1903(m)(2)(A)'' and inserting ''or with a managed care entity, as defined in section 1950(a)(1);

(4) in subsection (p)(2)—

(A) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''a managed care entity, as defined in section 1950(a)(1),'';

(B) by striking ''an organization'' and inserting ''an entity''; and

(C) by striking ''any organization'' and inserting ''any entity''; and

(5) in subsection (w)(1), by striking ''sections 1903(m)(1)(A) and'' and inserting ''section''.

(e) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

''(viii) Services of a managed care entity with a contract under section 1941(a)(1)(B).''.

(f) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''a managed care entity, as defined in section 1950(a)(1),'' each place it appears.

(g) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended to read as follows:

''(iv) ENROLLMENT WITH MANAGED CARE ENTITY.—Enrollment of the caretaker relative and dependent children with a managed care entity, as defined in section 1950(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a managed care entity in accordance with part B.''.

(h) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) (42 U.S.C. 1396r-8(j)(1)) is amended by striking ''***Health Maintenance Organizations, including those organizations that contract under section 1903(m),'' and inserting ''health maintenance organizations and medicaid managed care organizations, as defined in section 1950(a)(2),''.

(i) APPLICATION OF SANCTIONS FOR BALANCED BILLING THROUGH SUBCONTRACTORS.—

(1) Section 1128A(b)(2)(B) (42 U.S.C. 1320a–7a(b)) is amended by inserting '', including section 1944(b)'' after ''title XIX''.

(2) Section 1128B(d)(1) (42 U.S.C. 1320a–7b(d)(1)) is amended by inserting ''or, in the case of an individual enrolled with a managed care entity under part B of title XIX, the applicable rates established by the entity under the agreement with the State agency under such part'' after ''established by the State''.

(j) REPEAL OF CERTAIN RESTRICTIONS ON OBSTETRICAL AND PEDIATRIC PROVIDERS.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12).

(k) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking ''(except section 1903(m)'' and inserting ''(except part B)''.

(l) CONFORMING AMENDMENT FOR DISCLOSURE REQUIREMENTS FOR MANAGED CARE ENTITIES.—Section 1124(a)(2)(A) (42 U.S.C. 1320a–3(a)(2)(A)) is amended by inserting ''managed care entity under title XIX,'' after ''renal dialysis facility,''.

(m) ELIMINATION OF REGULATORY PAYMENT CAP.—The Secretary of Health and Human Services may not, under the authority of section 1902(a)(30)(A) of the Social Security Act or any other provision of title XIX of such Act, impose a limit by regulation on the amount of the capitation payments that a State may make to qualified entities under such title, and section 447.361 of title 42, Code of Federal Regulations (relating to upper limits of payment: risk contracts), is hereby nullified.

(n) CONTINUATION OF ELIGIBILITY.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by striking paragraph (2) and inserting the following:

''(2) For provision providing for extended liability in the case of certain beneficiaries enrolled with managed care entities, see section 1941(c).''.

(o) CONFORMING AMENDMENTS TO FREEDOM-OF-CHOICE PROVISIONS.—Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''subsection (g) and in section 1915'' and inserting ''subsection (g), section 1915, and section 1941,''; and

(2) in subparagraph (B), by striking ''a health maintenance organization, or a'' and inserting ''or with a managed care entity, as defined in section 1950(a)(1), or''.

**SEC. 5. EFFECTIVE DATE; STATUS OF WAIVERS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this Act shall apply to medical assistance furnished—

(1) during quarters beginning on or after October 1, 1997; or

(2) in the case of assistance furnished under a contract described in section 4(a)(2), during quarters beginning after the earlier of—

(A) the date of the expiration of the contract; or

(B) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) APPLICATION TO WAIVERS.—

(1) EXISTING WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in subsection (a), the amendments made by this Act shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

(2) SECRETARIAL EVALUATION AND REPORT FOR EXISTING WAIVERS AND EXTENSIONS.—

(A) PRIOR TO APPROVAL.—On and after the applicable effective date described in subsection (a), the Secretary, prior to extending any waiver granted under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), shall—

(i) conduct an evaluation of—

(I) the waivers existing under such sections or other provision of law as of the date of the enactment of this Act; and

(II) any applications pending, as of the date of the enactment of this Act, for extensions of waivers under such sections or other provision of law; and

(ii) submit a report to the Congress recommending whether the extension of a waiver under such sections or provision of law should be conditioned on the State submitting the request for an extension complying with the provisions of part B of title XIX of the Social Security Act (as added by this Act).

(B) DEEMED APPROVAL.—If the Congress has not enacted legislation based on a report submitted under subparagraph (A)(ii) within 120 days after the date such report is submitted to the Congress, the recommendations contained in such report shall be deemed to be approved by the Congress.

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By Mr. GRAHAM (for himself, Mr. MACK, and Mr. BAUCUS):

S. 865. A bill to provide for improved coordination, communications, and enforcement related to health care fraud, waste, and abuse, to create a point of order against legislation which diverts savings achieved through medicare waste, fraud, and abuse enforcement activities for purposes other than improving the solvency of the Federal hospital insurance trust fund under title XVIII of the Social Security Act, to ensure the integrity of such trust fund, and for other purposes; to the Committee on Finance.

THE MEDICARE ANTI-FRAUD ACT OF 1997

Mr. GRAHAM. Mr. President, I rise today, and join my colleagues, Senator MACK and Senator BAUCUS, to introduce timely legislation that addresses a problem that continues to plague the Medicare Program—fraud and abuse. The premise of this bill is quite simple: if Congress is to look for cuts in the Medicare Program, it should begin with eradicating fraud—for several reasons:

First, we cannot fix Medicare while letting fraud erode the system. The General Accounting Office estimates that the Medicare waste, fraud, and abuse ripoff rate is about 10 percent. With fraud pilfering the health system's resources losses to Medicare and the Federal share of Medicaid could be $30 billion annually. Using the most conservative of estimates, we could cover an additional 2 million seniors a year with funds lost just to Medicare waste, fraud, and abuse.

Mr. President, over the next few weeks, Congress will be ironing out the details of a historic budget agreement—one which will finally balance the budget. And both Congress and the President deserve credit for doing so. However, a balanced budget does not come without some pain—some consequences. For instance, the Medicare Program will realize cuts of approximately $115 billion over the next 5 years. We will be asking our Nation's seniors to share in the sacrifice along with the rest of the country.

Congress cannot, in good conscience, ask the Medicare Program and its beneficiaries to accept cuts unless we also work hard to eradicate fraud and abuse. Passage of the Kennedy-Kassebaum legislation last year was a step in the right direction. But the cheats and swindlers are clever at gaming the system. It is a sad fact that there will always be greedy people looking to take advantage of our Nation's seniors. So it is imperative that Congress be equally vigilant by cracking down on fraud wherever possible. Passage of my bill will continue the process and send this signal to the con artists and thieves: ''Your days are numbered.''

My legislation is crafted to build on State successes. For instance, one of the most crucial provisions in my bill, modeled after an extremely successful Florida Medicaid antifraud program, requires providers of durable medical equipment, home health, and transportation services to post a $50,000 surety bond to participate in the Medicare Program.

While a $50,000 bond is relatively inexpensive to post for scrupulous contractors, at the cost of between $500 and $1,500, the requirement has achieved tremendous results in my State. Since implementation of the surety bond requirement, the fly-by-night providers have scattered like so many roaches when the lights are turned on.

Durable medical equipment suppliers have dropped by 62 percent, from 4,146 to 1,565; home health agencies have decreased by 41 percent, from 738 to 441; providers of transportation services have disenrolled from the State's Medicaid Programs in droves—from 1,759 to 742, a drop of 58 percent. Fewer providers bilking the State's Medicaid Program is projected to save over $192 million over the next 2 years in Florida.

Two years ago I spent a day working in the U.S. attorney's Office in south Florida. I realized then that it was easier to get a provider number under Medicare than a personal VISA; easier to get a blank check paid for by the Treasury than a VISA or MasterCard.

This bill requires individuals to provide their social security number [SSN] and employer identification number [EIN] to get a Medicare provider number. This will make it more difficult for swindlers to enter the program. This bill has several other provisions which are critical to stemming rampant fraud in the Medicare Program:

My bill would enable State fraud control units, often the first line in the

fight against health care fraud, to investigate and prosecute fraud in Federal health care programs.

It would also prevent providers from discharging Medicare debt by declaring bankruptcy. The bill would also preclude Medicare swindlers from transferring their business to a family member in order to circumvent exclusion from the Medicare Program.

This legislation enacts a broad-based Federal statute aimed at suppressing Medicare fraud. It enhances the arsenal of weapons to combat fraud and prescribes stiff penalties against those convicted of fraud.

At the signing of the Medicare bill in Missouri 30 years ago, President Johnson said that Medicare had been planted with ''the seed of compassion and duty which have today flowered into care for the sick and serenity for the fearful.'' Medicare has lived up to its promise. But fraud is threatening to compromise the integrity of the system. We have the prescriptions to combat fraud. Now is the time to employ them if we want to save the integrity of Medicare.

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By Mrs. HUTCHISON:

S. 866. A bill to amend title 29, United States Code, to provide that certain voluntary disclosures of violations of Federal law made as a result of a voluntary environmental audit shall not be subject to discovery or admitted into evidence during a judicial or administrative proceeding, and for other purposes; to the Committee on the Judiciary.

THE ENVIRONMENTAL PROTECTION PARTNERSHIP ACT

Mrs. HUTCHISON. Mr. President, the title of the bill I send to the desk is the Environmental Protection Partnership Act of 1997. By introducing this bill, I am suggesting that the Federal Government take a cue from the States regarding environmental protection. Many State governments have passed laws that allow for voluntary audits of environmental compliance. These laws encourage a company to conduct an audit of its compliance with environmental laws. By conducting the audit, the company determines whether it is in compliance with all environmental laws. If it is not, these state laws allow the company, without penalty, to correct any violations it finds so it will come into compliance.

What my bill does is let the Federal Government do the same thing. It lets the Federal Government say to companies all over America, if you want to do a voluntary audit for environmental compliance, we are going to let you do that. We will encourage you but not force you to do it. And we are not going to come in and threaten you with the hammer of the EPA if you, in fact, move swiftly to come into compliance when you find that you are not in compliance.

We think this is the most effective way to clean up the air and water. Our air and water are invaluable natural resources. They are cleaner than they have been in 25 years, and we want to keep improving our efforts to guarantee their protection. This bill will ensure that, in the same fashion as many States have done. It does not preempt State law. If State laws are on the books, then the State laws prevail. But this offers companies all over our country the ability to comply with Federal standards in a voluntary way, to critically assess their compliance and not be penalized if they then take action to immediately come into compliance.

So I am asking that we take up this bill very quickly in committee. I think through this bill we can do a lot of good for America.

Mr. President, today I introduce legislation that will ensure that we continue to increase the protection of our environment in the United States. My bill, the Environmental Protection Partnership Act of 1997, provides incentives for companies to assess their own environmental compliance. Rather than playing a waiting game for EPA to find environmental violations, companies will find—and stop—violations. Many more violations will be corrected, and many others will be prevented.

Under my bill, if a company voluntarily completes an environmental audit—a thorough review of its compliance with environmental laws—the audit report may not be used against the company in court. The report can be used in court, however, if the company found violations and did not promptly make efforts to comply. By extending this privilege, a company that looks for, finds, and remedies problems will continue this good conduct, and protect the environment.

In addition, if a company does an audit, and promptly corrects any violations, the company may choose to disclose the violation to EPA. If the company does disclose the violation, the company will not be penalized for the violations. By ensuring companies that they will not be dragged into court for being honest, the bill encourages companies to find and fix violations and report them to EPA.

This does not mean that companies that pollute go scot-free. Under this bill, there is no protection for: willful and intentional violators; companies that do not promptly cure violations; companies asserting the law fraudulently; or companies trying to evade an imminent or ongoing investigation. Further, the bill does not protect companies that have policies that permit ongoing patterns of violations of environmental laws. And where a violation results in a continuing adverse public health or environmental effect, a company may not use the protections of this law.

Nor does this bill mean that EPA loses any authority to find violations and punish companies for polluting. EPA retains all its present authority.

At the same time that EPA retains full authority to enforce environmental laws, I propose to engage every company voluntarily in environmental protection by creating the incentive for those companies to find and cure their own violations. This frees EPA to target its enforcement dollars on the bad actors—the companies that intentionally pollute our water and air.

Twenty-one States have already passed audit laws. These States understand that to truly protect the environment, everyone must participate. These States have made it possible for companies to want to be good actors and play an active role in environmental protection. Texas has an audit law. Hundreds of companies have carried out a voluntary environmental audit, and after only 18 months, companies had already reported and corrected 50 violations. Other States report similar success.

My bill does not mandate that States adopt these policies. It does not mandate that States amend their laws. Quite the opposite. My bill specifically does not preempt State law. Therefore, a State may choose not to enact an audit law, but a company in that State can still conduct a voluntary audit with respect to Federal environmental law. Further, in a State with an audit law, a company will be able to thoroughly review its entire State and Federal compliance, and remedy any violations it may find. Therefore, my bill supports—but does not supplant—State efforts by encouraging companies to audit their compliance with Federal environmental laws as well.

We have made great strides in cleaning up our environment over the past 30 years. To continue this trend, we need to be preventing pollution, rather than always reacting to environmental problems after they occur. Even EPA agrees that to achieve this, companies need to play an active role in environmental protection. In a recent policy Statement, EPA pointed out that because Government resources are limited, maximum compliance cannot be achieved without active efforts by the regulated community to police themselves. The Environmental Protection Partnership Act will make companies active partners with EPA in assuring compliance with environmental laws.

I am very pleased to be working with the majority leader on this legislation and I hope Members on both sides of the aisle will join me in this effort to increase environmental protection.

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By Mr. HARKIN (for himself, Mr. HUTCHINSON, Mr. REID, Mr. BRYAN and Mr. ROCKEFELLER):

S. 868. A bill to amend the Social Security Act to prohibit persons from charging for services or products that the Social Security Administration and Department of Health and Human Services provide without charge; to the Committee on Finance.

THE SOCIAL SECURITY CONSUMER PROTECTIONS ACT

Mr. HARKIN. Mr. President. Today, I am introducing, on behalf of myself,

Senators HUTCHINSON, REID, BRYAN, and ROCKEFELLER, the Social Security Consumer Protection Act. This is a simple, commonsense legislation that will arm consumers with the information they need to protect themselves from a growing type of consumer scam.

Several years ago Congress took an important step toward stamping out frauds against older Americans. We passed a law making it illegal for companies to prey upon senior citizens and others by misrepresenting an affiliation with Social Security or Medicare. After some delay, the Social Security inspector general has begun to enforce this important new consumer protection law. However, we are finding that many scam artists are squirming through a loophole in the law that allows them to charge unwitting consumers for services that are available free of charge from Social Security or Medicare.

A recent investigation by my staff found that unsuspecting consumers—from new parents to senior citizens—are falling prey to con artists charging them for services that are available free of charge from the Social Security Administration. Many of the schemes involve use of materials and names which mislead consumers into believing that the scam artists are affiliated with the federal government.

Companies operating under official sounding names like Federal Document Services, Federal Record Service Corp., National Records Service, and U.S. Document Services are mailing information to thousands of unsuspecting Americans, including many Iowans. These companies are scaring people into remitting a fee to receive basic Social Security benefits and eligibility information such as a new Social Security number and card for a baby and changing names upon marriage or divorce.

We began to look into this problem based on a number of complaints from Iowans who had received these deceptive mailings. One example was sent to me by Deb Conlee of Fort Dodge. She received a mailing from a company called Document Service. The official looking letter starts: ''Read Carefully: Important Facts about your Social Security Card. The response envelope is stamped ''SSA–7701'' giving the impression that it is connected with the Social Security Administration. The solicitation goes on to say that she is required to provide Social Security with any name change associated with her recent marriage and get a new Social Security card. It then urges her to send them $14.75 to do this. It says, ''We urge you to do this immediately to help avoid possible problems where your Social Security benefits or joint income taxes might be questioned.''

Ms. Conlee paid $60 to this company and was furious when she learned that she could have gotten the same services free of charge from Social Security.

Last year I asked Social Security Commissioner Shirley Chater to investigate the complaints of Iowans and those of consumers like her. She responded that the services provided by Document Service ''are completely unnecessary. Not only do they fail to produce any savings of time or effort for the customer, they also tend to delay issuance of the new Social Security card.'' While it is now illegal for a company to imply any direct connection with Social Security or Medicare in mailings, it is not illegal to charge for the very same services that are available at no cost from the government.

So while Congress has acted to try and stop scam artists from trying to fool people into thinking their business is somehow affiliated with Social Security, Medicare, or some other government agency, many are skirting around the edges of this law and are conning consumers into paying for services that they can get free of charge. Nowhere in any of the mailings from these outfits that I have reviewed is there any mention that the services they offer are in fact available to consumers at no cost from the government.

The Social Security Consumer Protection Act would require that any such solicitation prominently display the following consumer alert: ''IMPORTANT PUBLIC DISCLOSURE: The product or service described here and assistance to obtain the product or service is available free of charge from the Social Security Administration or the Department of Health and Human Services.'' Armed with this information, consumers would be able to make informed decisions about where to obtain the service they need or want. Companies found to be in violation of this simple requirement would face fines.

Our legislation would not stop the provision of services by private companies. Rather, it would simply make sure that consumers are fully informed, so that they can make an informed choice about where and how they prefer to receive certain services.

These scams must be put to an end. A simple change in the law would go a long way toward stopping them. The bill we are introducing today would make such a change without imposing an undue burden on legitimate businesses or restricting consumer freedom of choice.

Mr. President, this legislation has been endorsed by the National Committee to Preserve Social Security and Medicare. The National Committee is an effective and aggressive advocate of the rights of older Americans. I am pleased to have their endorsement and ask unanimous consent to include a copy of their letter of support be printed in the RECORD.

I urge my colleagues to review this bill and to work with us to ensure its prompt approval.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
*Washington, DC, May 8, 1997.*

Hon. TOM HARKIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR HARKIN: On behalf of the 5.5 million members and supporters of the National Committee to Preserve Social Security and Medicare, I am pleased to offer our endorsement of your legislation, the Social Security Consumer Protection Act.

Your legislation would require that any business which solicits direct payment for services which the Social Security Administration provides free of charge must include a clear and prominent written disclaimer. Your bill would also impose new civil and criminal penalties for failure to comply with its provisions. A growing number of businesses have emerged across the country which, for a direct fee, assist individuals who seek to change their names, social security numbers, or obtain other information relative to their work record. Unfortunately, some of these enterprises do not adequately inform would be consumers that they are not affiliated with the federal government, or that such services are provided free of charge by the government. As a consequence, some individuals may be led to believe that they must pay the fee to obtain these services.

We appreciate your leadership on this important matter. People should not be coerced to pay twice for services which are already provided with their hard earned tax dollars.

Sincerely,

MARTHA A MCSTEEN, *President.*

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By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. TORRICELLI, Mr. WYDEN, Mr. BINGAMAN, Mr. KERRY, Mr. WELLSTONE, Mr. HARKIN, Ms. LANDRIEU, Mr. FEINGOLD, Mrs. MURRAY, Mrs. BOXER, Mr. LEVIN, Mr. SARBANES, Mr. AKAKA, Mr. LAUTENBERG, Mr. DURBIN, Mr. CHAFEE, Mr. KOHL, Mr. INOUYE, Ms. MIKULSKI, Mr. ROBB, Mr. MOYNIHAN, Mrs. FEINSTEIN, Mr. DODD, Mr. REID, Mr. LEAHY, Mr. BRYAN, Ms. MOSELEY-BRAUN, Mr. GLENN, Mr. KERREY, Mr. REED, Mr. D'AMATO, and Mr. CLELAND):

S. 869. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

THE EMPLOYMENT NON-DISCRIMINATION ACT OF 1997

Mr. JEFFORDS. Mr. President, I am pleased to be here today to introduce the Employment Non-Discrimination Act of 1997 [ENDA]. As many of you recall, my colleagues and I introduced similar legislation in the last Congress. While we were unable to pass ENDA in the last Congress, I was encouraged that ENDA was only narrowly defeated, by a vote of 50 to 49. It is my hope that in the 105th Congress, we can bridge that narrow gap and pass this legislation. By extending to sexual orientation the same Federal employment discrimination protections established for race, religion, gender, national origin, age, and disability, this legislation will further ensure that principals of equality and opportunity apply to all Americans.

I believe that all Americans deserve to be judged at work based on their ability to do their jobs and not their sexual orientation. People who work hard and perform well should not be kept from leading productive and responsible lives because of an irrational, non-work-related prejudice. Unfortunately, many responsible and productive members of our society face discrimination in their workplaces based on nothing more than their sexual orientation. Because this insidious discrimination persists, there is a need for Congress to pass the Employment Non-Discrimination Act.

Mr. President, the Senate's vote last Congress is no doubt reflective of the American people's support of the concept behind ENDA. In a recent poll, 83 percent of the respondents support the passage of a law extending civil rights and preventing job discrimination against gays and lesbians. While ENDA will achieve this goal of equal rights for job opportunities, it does so by not creating any special rights for gays and lesbians. Specifically, this legislation prohibits preferential treatment based on sexual orientation. In addition, ENDA does not require an employer to justify a neutral practice that may have a statistically disparate impact based on sexual orientation, nor provide benefits for the same-sex partner of an employee. Rather, it simply protects a right that should belong to every American, the right to be free from discrimination at work because of personal characteristics unrelated to successful performance on the job.

Since ENDA's narrow defeat last September, we have taken a fresh look at this important legislation in an attempt to allay some of the concerns raised by ENDA's detractors in the last Congress. I am pleased to announce that we have made several significant improvements in the bill.

Our first change is intended to address the concern raised that employees' privacy rights would be violated if the Equal Employment Opportunity Commission [EEOC] required employers to provide the Government with data on the sexual orientation of their employees. As a result, the bill now prohibits the EEOC from collecting such statistics and from compelling employers to do so. Opponents of the previous legislation were also concerned that the EEOC would require employers who have violated ENDA to hire gay and lesbian employees as part of its enforcement scheme. To alleviate that possibility, the new legislation precludes the EEOC from entering into a consent decree that includes quotas, or gives preferential treatment based on sexual orientation. In addition, we have narrowed the language of the previous bill so that only actual paid employees are protected and we have attempted to ensure that exempted religious organizations from coverage.

In today's global economy, our Nation must take full advantage of every resource that is at our disposal if we want U.S. companies to maintain their competitive advantage over their international competitors. The fact that a majority of Fortune 500 companies have incorporated many of ENDA's policies, clearly indicates the acceptance of these changes within the workplace. In fact, it can be stated that without these American companies, on their own, undertaking these actions to insure adequate working protections for all of their employees they would be less competitive and may even be unable to maintain their existence within this fiercely competitive international environment.

Mr. President, some concern has been raised by my colleagues that passing ENDA will create a new wave of litigation. I am proud to say that my home State of Vermont is one of several States and localities that have enacted a sexual orientation anti-discrimination law, and it is no surprise, to me, that the sky has not fallen. Since the enactment of Vermont's law in 1991 the Vermont Attorney General has initiated only 17 investigations of alleged sexual orientation discrimination. Seven are pending at this time. Five have been closed with determinations that unlawful discrimination cannot be proven to have occurred. Four have been closed for miscellaneous administrative reasons, unrelated to the merits of the charge, and one resulted in a settlement. In addition, I am not aware of a single complaint from Vermont employers about the enforcement of the State law. However, I do know that thousands of Vermonters no longer need to live and work in the shadows. The facts bear out my belief that the effect experienced in Vermont on litigation has been experienced in other States and the District of Columbia that have implemented policies similar to the one of my home State of Vermont.

As I have stated before, success at work should be directly related to one's ability to do the job, period. The passage of ENDA would be a significant step toward ensuring the ability of all people, be they gay, lesbian, or heterosexual, to be fairly judged on their work product, not on an unrelated personal characteristic. I urge all my colleagues to join me in supporting this bill.

I ask unanimous consent that a copy of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 869

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Employment Non-Discrimination Act of 1997''.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate interstate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term ''covered entity'' means an employer, employment agency, labor organization, joint labor-management committee, an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies, an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies, or an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301). The term ''covered entity'' includes an employing office, as defined in section 401 of title 3, United States Code.

(3) EMPLOYER.—The term ''employer'' means a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has 15 or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(4) EMPLOYMENT AGENCY.—The term ''employment agency'' has the meaning given the term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(5) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—Except as provided in section 10(a)(1), the term ''employment or an employment opportunity'' includes job application procedures, hiring, advancement, discharge, compensation, job training, or any other term, condition, or privilege of employment, but does not include the service of a volunteer for which the volunteer receives no compensation.

(6) LABOR ORGANIZATION.—The term ''labor organization'' has the meaning given the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(7) PERSON.—The term ''person'' has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(8) RELIGIOUS ORGANIZATION.—The term ''religious organization'' means—

(A) a religious corporation, association, or society; or

(B) a school, college, university, or other educational institution or institution of learning, if—

(i) the institution is in whole or substantial part controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

(ii) the curriculum of the institution is directed toward the propagation of a religion.

(9) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.

(10) STATE.—The term ''State'' has the meaning given the term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

**SEC. 4. DISCRIMINATION PROHIBITED.**

A covered entity shall not, with respect to the employment or an employment opportunity of an individual—

(1) subject the individual to a different standard or different treatment, or otherwise

discriminate against the individual, on the basis of sexual orientation; or

(2) discriminate against the individual based on the sexual orientation of a person with whom the individual is believed to associate or to have associated.

**SEC. 5. RETALIATION AND COERCION PROHIBITED.**

(a) RETALIATION.—A covered entity shall not discriminate against an individual because the individual opposed any act or practice prohibited by this Act or because the individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of the individual's having exercised, enjoyed, assisted in, or encouraged the exercise or enjoyment of, any right granted or protected by this Act.

**SEC. 6. BENEFITS.**

This Act does not apply to the provision of employee benefits to an individual for the benefit of the partner of the individual.

**SEC. 7. NO DISPARATE IMPACT; COLLECTION OF STATISTICS.**

(a) DISPARATE IMPACT.—The fact that an employment practice has a disparate impact, as the term ''disparate impact'' is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of sexual orientation does not establish a prima facie violation of this Act.

(b) COLLECTION OF STATISTICS.—The Commission shall not collect statistics on sexual orientation from covered entities, or compel the collection of such statistics by covered entities.

**SEC. 8. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.**

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

(c) CONSENT DECREES.—The Commission may not enter into a consent decree that includes a quota, or preferential treatment to an individual, based on sexual orientation.

**SEC. 9. RELIGIOUS EXEMPTION.**

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall not apply to a religious organization.

(b) UNRELATED BUSINESS TAXABLE INCOME.—This Act shall apply to employment or an employment opportunity for an employment position of a covered entity that is a religious organization, if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

**SEC. 10. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.**

(a) ARMED FORCES.—

(1) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—In this Act, the term ''employment or an employment opportunity'' does not apply to the relationship between the United States and members of the Armed Forces.

(2) ARMED FORCES.—In paragraph (1), the term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This Act does not repeal or modify any Federal, State, territorial, or local law creating a special right or preference concerning employment or an employment opportunity for a veteran.

**SEC. 11. CONSTRUCTION.**

Nothing in this Act shall be construed to prohibit a covered entity from enforcing rules regarding nonprivate sexual conduct, if the rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation.

**SEC. 12. ENFORCEMENT.**

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act in the case of a claim alleged by an individual for a violation of this Act—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by the individual for a violation of such title or of section 302(a)(1) of such Act (2 U.S.C. 1202(a)(1)), respectively;

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by the individual for a violation of such title;

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by the individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

(4) the Attorney General shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by the individual for a violation of such title or of section 302(a)(1) of such Act (2 U.S.C. 1202(a)(1)), respectively;

(5) the President, the Commission, and the Merit Systems Protection Board shall have the same powers as the President, the Commission, and the Board, respectively, have to administer and enforce chapter 5 of title 3, United States Code, in the case of a claim alleged by the individual for a violation of section 411 of such title;

(6) a court of the United States shall have the same jurisdiction and powers as the court has to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by the individual for a violation of such title;

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220) in the case of a claim alleged by the individual for a violation of section 302(a)(1) of such Act (2 U.S.C. 1202(a)(1));

(C) the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by the individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)); and

(D) chapter 5 of title 3, United States Code, in the case of a claim alleged by the individual for a violation of section 411 of such title.

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim alleged by an individual for a violation of this Act are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by the individual for a violation of such title;

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) in the case of a claim alleged by the individual for a violation of such section;

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in the case of a claim alleged by the individual for a violation of such section; and

(4) the procedures and remedies applicable for a violation of section 411 of title 3, United States Code, in the case of a claim alleged by the individual for a violation of such section.

(c) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleged by a covered employee (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) for a violation of this Act, title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleged by such a covered employee for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

**SEC. 13. STATE AND FEDERAL IMMUNITY.**

(a) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution from an action in a Federal court of competent jurisdiction for a violation of this Act.

(b) REMEDIES AGAINST THE UNITED STATES AND THE STATES.—Notwithstanding any other provision of this Act, in an action or administrative proceeding against the United States or a State for a violation of this Act, remedies (including remedies at law and in equity, and interest) are available for the violation to the same extent as the remedies are available for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by a private entity, except that—

(1) punitive damages are not available; and

(2) compensatory damages are available to the extent specified in section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

**SEC. 14. ATTORNEYS' FEES.**

Notwithstanding any other provision of this Act, in an action or administrative proceeding for a violation of this Act, an entity described in section 12(a) (other than paragraph (4) of such section), in the discretion of the entity, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs.The United States shall be liable for the costs to the same extent as a private person.

**SEC. 15. POSTING NOTICES.**

A covered entity shall post notices for employees, applicants for employment, and members, to whom the provisions specified in section 12(b) apply, that describe the applicable provisions of this Act in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

**SEC. 16. REGULATIONS.**

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Commission shall have authority to issue regulations to carry out this Act.

(b) LIBRARIAN OF CONGRESS.—The Librarian of Congress shall have authority to issue regulations to carry out this Act with respect to employees of the Library of Congress.

(c) BOARD.—The Board referred to in section 12(a)(3) shall have authority to issue regulations to carry out this Act, in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), with respect to covered employees, as defined in section 101 of such Act (2 U.S.C. 1301).

(d) PRESIDENT.—The President shall have authority to issue regulations to carry out this Act with respect to covered employees, as defined in section 401 of title 3, United States Code.

**SEC. 17. RELATIONSHIP TO OTHER LAWS.**

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

**SEC. 18. SEVERABILITY.**

If any provision of this Act, or the application of the provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by the invalidity.

**SEC. 19. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect 60 days after the date of enactment of this Act and shall not apply to conduct occurring before the effective date.

(b) PRESIDENTIAL OFFICES.—The second sentence of section 3(2), and sections 12(a)(5), 12(a)(6)(D), 12(b)(4), and 16(d), shall take effect on, and shall not apply to conduct occurring before, the later of—

(1) October 1, 1997; and

(2) the effective date described in subsection (a).

Mr. LIEBERMAN. Mr. President, I am delighted to join with Senators JEFFORDS, KENNEDY, and over 30 of our colleagues as an original cosponsor of this important legislation, the Employment Non-Discrimination Act of 1997. By guaranteeing that American workers cannot lose their jobs simply because of their actual or perceived sexual orientation, this bill would extend the bedrock American values of fairness and equality to a group of our citizens who too often have been denied the benefit of those most basic values.

Our Nation's foundational document, the Declaration of Independence, expressed a vision of our country as one premised upon the essential equality of all people and upon the recognition that our Creator endowed all of us with the inalienable rights to life, liberty, and the pursuit of happiness. Two hundred and twenty years ago, when that document was drafted, our laws fell far short of implementing the declaration's ideal. But since that time, we have come ever closer, extending by law to more and more of our citizens—to African-Americans, to women, to disabled Americans, to religious minorities, and to others—a legally enforceable guarantee that, with respect to their ability to earn a living at least, they will be treated on their merits and not on characteristics unrelated to their ability to do their jobs.

It is time to extend that guarantee to gay men and lesbians, who too often have been subject to incidents of discrimination and denied the most basic of rights: the right to obtain and maintain a job. A collection of nearly two dozen studies shows that as many as 46 percent of gay and lesbian workers have experienced significant discrimination in the workplace. The fear in which these workers live was clear from a survey of 1,400 gay men and lesbians in Philadelphia. Seventy-six percent of the men and 81 percent of the women told those conducting the survey that they hide their orientation at work out of concern for their job security. This result, although unfortunate, is not surprising in light of a University of Maryland study that found gay men's income to be 11 to 27 percent lower than that of heterosexual men, thanks to the effects of discrimination.

The toll this discrimination takes extends far beyond its effect on those individuals who must live in fear and without full employment opportunities. It also takes an unacceptable toll on America's definition of itself as a land of equality and opportunity, as a place where we judge each other on our merits, and as a country that teaches its children that anyone can succeed here as long as they are willing to do their job and work hard.

This bill provides for equality and fairness—that and no more. It says only what we already have said for women, for people of color, and for others: that you are entitled to have your ability to earn a living depend only on your ability to do the job and nothing else. In fact, the bill would even do somewhat less than it does for women and people of color, because it would not give gay men and women all of the protections we currently provide to other groups protected under our civil rights laws.

Mr. President, this bill would bring our Nation one large step closer to realizing the vision that Thomas Jefferson so eloquently expressed 220 years ago when he wrote that all of us have a right to life, liberty, and the pursuit of happiness. I urge my colleagues to join me in supporting this important legislation.

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By Mr. WELLSTONE:

S. 870. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, approval, and use of medical devices to maintain and improve the public health and quality of life of individuals, and for other purposes; to the Committee on Labor and Human Resources.

THE MEDICAL TECHNOLOGY, PUBLIC HEALTH, AND INNOVATION ACT OF 1997

Mr. WELLSTONE. Mr. President, the legislation that I am introducing today, the Medical Technology, Public Health and Innovation Act of 1997, takes a significant step toward improving the effectiveness, timeliness, and predictability of the FDA review process for medical devices.

It is important that we improve the system for device approval in order to provide access to optimal technology to American consumers. We need to do this in order to promote the public health. We must also maintain protections for consumers, which are provided by the FDA's oversight of device manufacturing, development, and marketing. This legislation maintains those protections, while allowing for new efficiencies within the FDA.

Over the past 2 years, I have met with numerous representatives of Minnesota's medical device industry, patient advocates, clinicians, and officials from the FDA, and have concluded that there are indeed steps that Congress should take to make the regulatory process for medical devices more efficient. Minnesotans want the FDA not only to protect public health, but also to promote public health. They want to know not only that new technologies will be safe, but that they will be available to them in a timely manner. Many of Minnesota's medical device manufacturers, researchers, clinicians, and patients in need of new and improved health care technology have become increasingly concerned about the regulatory environment at the FDA. While there have been some improvements in the device review process, there is still a need to increase communication between the FDA and industry; to decrease review times; and to have consistency in the review process.

These needs are highlighted by the following example. A plant operated by a Minnesota-based device company was developing a new treatment for aortic aneurysms, which would require less invasive measures than are currently used. The company developed a protocol for testing its product, submitted the protocol to the FDA and was told by the reviewer that the protocol was invalid. The reviewer suggested a different protocol and the company followed it. Upon completion of the clinical trial, the company submitted the required data to the FDA. The original reviewer was on an extended leave of absence, so the data went to a different reviewer. The new reviewer deemed the protocol that was used to be invalid, and requested a new clinical trial, which basically followed the protocol that had been rejected by the first reviewer. The company was forced to do a new trial, which resulted in significant delays in getting this important product to market for patient use. I am certain that this is but one of many examples of inconsistently applied processes that delay the release of life-saving technology to the consumer.

The technologies that the FDA regulates are changing rapidly. We cannot afford a regulatory system that is ill-equipped to speed these advances. As a result, both Congress and the Administration are reexamining the paradigms that have governed the FDA. Our challenge will be to define FDA's mission and scope of responsibility, as well as to give guidance on an appropriate balance between the risks and rewards of streamlining all aspects of how FDA does its job—including the approval process for breakthrough products.

The legislation that I am introducing would begin to address these issues in three important ways:

First, it would enable the FDA to adopt nationally and internationally recognized performance standards to improve the transparency and effectiveness of the device review process.

Resource constraints and the time-consuming rulemaking process have precluded FDA promulgation of performance standards in the past. This legislation would allow the FDA, when appropriate, to simply adopt consensus standards that are already being used by most of the world and use those standards to assist in determining the safety and effectiveness of class III medical devices. The FDA could require additional data from a manufacturer relevant to an aspect of a device covered by an adopted performance standard if necessary to protect patient safety. Currently, the lack of clear performance standards for class III medical devices is a barrier to the improvement of the quality and timeliness of the premarket approval process.

Second, it would improve communication between the industry and the FDA and the predictability of the review process. I believe that these two factors are extremely important. The bill includes provisions for meetings between the applicant and the FDA to ensure that applicants are promptly informed of any deficiencies in their application, that questions that can be answered easily would be addressed right away, and that applicants would be well informed about the status of their application. I believe that improving communication between the FDA and industry would result in greater compliance with regulations and that this will ultimately benefit consumers and patients.

Third, the legislation would help the FDA focus its resources more appropriately. PMA supplements or 510(k)'s that relate only to changes that can be shown to not adversely affect the safety or effectiveness of the device would not require premarket approval or notification. Manufacturers would instead make information and data supporting the change part of the master record at the FDA. In addition the FDA would be able to exempt from premarket notification requirements those class II devices for which such requirements are unnecessary to ensure the public health without first having to go through the time consuming and bureaucratic process of reclassifying them to class I. The FDA would also have the option of relying on postmarket controls classifying devices. Enabling the FDA to focus its attention where the real risks are will not only streamline the approval process but also benefit consumers.

I look forward to working with Senator JEFFORDS, the chairman of the Labor and Human Resources Committee, and my other colleagues on the Committee on the concepts included in my proposal. I will work vigorously to ensure that they are included in FDA legislation considered by the Senate this year. I look forward to continuing to work on these issues with Minnesotans. Clearly, there are actions that Congress can take to improve the FDA without sacrificing the assurance of safety that all Americans depend on.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 870

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND REFERENCE.**

(a) SHORT TITLE.—This Act may be cited as the ''Medical Technology, Public Health, and Innovation Act of 1997''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.)

**SEC. 2. FINDINGS; MISSIONS STATEMENT.**

(a) FINDINGS.—The Congress finds the following:

(1) While the United States appropriately puts a top priority on the regulation of medical technologies to ensure the safety and efficacy of medical technologies that are introduced into the marketplace, the administration of such regulatory effort is causing the United States to lose its leadership role in producing innovative, top-quality medical devices.

(2) One of the key components of the medical device regulatory process that contributes to the United States losing its leadership role in medical device development is the inordinate amount of time it takes for medical technologies to be reviewed by the Food and Drug Administration.

(3) The most important result of the United States losing its leadership role is that patients in the United States do not have access to new medical technology in a timely manner.

(4) Delayed patient access to new medical technology results in lost opportunities to save lives, to reduce hospitalization and recovery time, and to improve the quality of life of patients.

(5) The economic benefits of the United States medical device industry, which is composed principally of smaller companies, has provided through growth in jobs and global trade are threatened by the slow and unpredictable regulatory process at the Food and Drug Administration.

(6) The pace and predictability of the medical device regulatory process are in part responsible for the increasing tendency of United States medical device companies to shift research, product development, and manufacturing offshore, at the expense of American jobs, patients, and leading edge clinical research.

(b) MISSION STATEMENT.—This legislation seeks to improve the timeliness, effectiveness, and predictability of the medical device approval process for the benefit of United States patients and the United States economy by—

(1) providing for the use of nationally and internationally recognized performance standards to assist the Food and Drug Administration in determining the safety and effectiveness of medical devices;

(2) facilitating communication between medical device companies and the Food and Drug Administration;

(3) targeting the use of Food and Drug Administration resources on medical devices that are likely to have serious adverse health consequences; and

(4) requiring the Food and Drug Administration to determine the least costly, most efficient approach to reasonably assuring the safety and effectiveness of devices.

**SEC. 3. DEVICE PERFORMANCE STANDARDS.**

(A) ALTERNATIVE PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended by adding at the end the following:

''RECOGNITION OF A PERFORMANCE STANDARD

''(c)(1)(A) The Secretary, through publication in the Federal Register, issue notices identifying and listing nationally and internationally recognized performance standards for which persons may provide a certification of a device's conformity under paragraph (3) in order to meet the premarket submission requirements or other requirements under the Act to which the standards are applicable.

''(B) Any person may elect to utilize data other than data required by the standards described in subparagraph (A) to meet any requirement under the Act to which the standards are applicable.

''(2) The Secretary may remove from the list of standards described in paragraph (1) a standard that the Secretary determines is no longer appropriate for making determinations with respect to the regulation of devices.

''(3)(A) A person may provide a certification that a device conforms to an applicable standard listed under paragraph (1) to meet the requirements described in paragraph (1) and the Secretary shall accept such certification.

''(B) The Secretary may, at any time, request a person who submits a certification described in subparagraph (A) to submit the data or information that the person relied on in making the certification.

''(C) A person who submits a certification described in subparagraph (A) shall maintain the data and information upon which the certification was made for a period of 2 years after the submission of the certification or a time equal to the expected design life of a device, whichever is longer.''.

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

''(x) The falsification of a certification submitted under section 514(c)(3) or the failure or refusal to provide data or information requested by the Secretary under such section.''.

(c) SECTION 501.—Section 501(e) (21 U.S.C. 351(e)) is amended by striking ''established'' and inserting ''established or listed''.

**SEC. 4. PREMARKET APPROVAL.**

(a) APPLICATION.—Section 515(c) (21 U.S.C. 360e(c)) is amended—

(1) in paragraph (1)—

(B) in subparagraph (F), by striking ''; and'' and inserting a semicolon;

(C) in subparagraph (G), by striking ''require.'' and inserting ''require; and''; and

(D) by adding at the end the following:

''(H) an identifying reference to any performance standard listed under section 514(c) that is applicable to such device.

(2) by adding at the end the following:

''(3) The Secretary shall accept historical clinical data as a control for use in determining whether there is a reasonable assurance of safety and effectiveness of a device in a case in which the effects of the progression of a disease are clearly defined and well understood.

''(4) The Secretary may not require the sponsor of an application to conduct clinical trials for a device using randomized controls unless the controls—

''(A) are necessary;

''(B) are scientifically and ethically feasible; and

''(C) other less burdensome controls, such as historical controls, are not available to permit a determination of a reasonable assurance of safety and effectiveness.''.

(b) ACTION ON APPLICATION.—Section 515(d) (21 U.S.C. 30e(d)) is amended—

(1) in paragraph (1)(A)—

(A) by striking ''paragraph (2) of this subsection'' each place it appears and inserting ''paragraph (8)''; and

(B) by adding at the end the following flush paragraph:

''In making a determination to approve or deny an application, the Secretary shall rely on the conditions of use proposed in the labeling of device as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness. If, based on a fair evaluation of all material facts, the proposed labeling of the device is neither false nor misleading in any particular, the Secretary shall not consider conditions of use not included in such labeling in making the determination.'';

(3) by redesignating paragraphs (2) and (3) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (1) the following:

''(2) Each application received under subsection (c) shall be reviewed in a manner to achieve final action within the 180-day period described in subparagraph (A), and the 180-day period may not be altered for any reason without the written consent of an applicant.

''(3)(A) Not later than 100 days after the receipt of an application that has been filed by the Secretary because the application satisfies the content requirements of subsection (c)(1), the Secretary shall meet with the applicant and disclose each deficiency relating to the application that would preclude approval of the application under paragraph (1).

''(B) The applicant shall have the right to be informed in writing with respect to the information communicated to the applicant during the meeting.

''(4) To permit better treatment or better diagnoses of life-threatening or irreversibly debilitating diseases or conditions, the Secretary shall expedite the review for devices—

''(A) representing breakthrough technologies;

''(B) offering significant advantages over existing approved alternatives; or

''(C) for which accelerated availability is in the best interest of the public health.

''(5) The Secretary shall complete the review of all supplemental applicants to an application approved under paragraph (1) that do not contain clinical data within 90 days after the receipt of a supplement that has been accepted for filing.

''(6)(A) A supplemental application shall be required for any change to a device subject to an approved application under this subsection if the change affects safety or effectiveness, unless the change is a modification in a manufacturing procedure or method of manufacturing and the holder of an approved application submits a notice to the Secretary that describes the change and informs the Secretary that the change has been made under the requirements of section 520(f).

''(B)(i) In reviewing a supplement to an approved application for an incremental change to the design of a device that affects safety or effectiveness, the Secretary shall approve the supplement if—

''(I) nonclinical data demonstrate that a design modification creates the intended additional capacity, function, or performance of the device; and

''(II) clinical data from the approved application and any supplements to the approved application provide a reasonable assurance of safety and effectiveness.

''(ii) The Secretary may require, when necessary, additional clinical data to evaluate the design modification to provide a reasonable assurance of safety and effectiveness.

''(7) Any representation in promotional materials for a device subject to an approved application under this subsection shall not be subject to premarket approval under this section, unless such representations establish new conditions of use. Any representations made in promotional materials for devices subject to an approved application shall be supported by appropriate data or information that can substantiate the representations at the time such representations are made.''.

(c) WITHDRAWAL OR TEMPORARY SUSPENSION OF APPROVAL OF APPLICATION.—Section 515(e)(1) (21 U.S.C. 360e(1)) is amended in subparagraph (G) by inserting after the word ''effect'' the words ''or listed.''

**SEC. 5. PREMARKET NOTIFICATION.**

(a) EXEMPTION OF CERTAIN DEVICES.—Section 510 (21 U.S.C. 360) is amended—

(1) in subsection (k), by striking ''intended for human use'' and inserting ''intended for human use (except a device that is classified into class I under section 513 or 520 or a device that is classified into class II under section 513 or 520, and is exempt from the requirements of this subsection under subsection (l))'';

(2) by adding at the end of subsection (k) (as amended by paragraph (1)) the following flush sentence:

''The Secretary shall review the notification required by this subsection and make a determination under section 513(f)(1)(A) within 90 days after receiving the notification.''; and

(3) by adding at the end of the following:

''(l)(A) Within 30 days after the date of enactment of this subsection, the Secretary shall develop and publish in the Federal Register a list of each type of class II device that does not require a report under subsection (k) to provide reasonable assurance of safety and effectiveness. Each type of class II device identified by the Secretary not to require the report shall be exempt from the requirement to file a report under subsection (k) as of the date of the publication of the list in the Federal Register.

''(B) Beginning on the date that is 1 day after the date of the publication of a list under this subsection, any person may petition the Secretary to exempt a type of class II device from the requirement of subsection (k). The Secretary shall respond to the petition within 120 days after the receipt of the petition and determine whether or not to grant the petition in whole or in part.''.

(b) SPECIAL RULE RELATING TO EXEMPTION OF CLASS I DEVICES FROM 510K NOTIFICATIONS.—The exemption of a class I device from the notification requirement of section 510(k) shall not apply to a class I device that is life sustaining or life saving or that is intended to be implanted into the human body.

**SEC. 6. INVESTIGATIONAL DEVICE EXEMPTION.**

(a) REGULATIONS.—Section 520(g) (21 U.S.C. 360j(g)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

''(4) The Secretary shall, within 120 days after the date of enactment of this paragraph, by regulation, amending the content of part 812 of title 21 of the Code of Federal Regulations, amend the procedures with respect to the approval of clinical studies under this subsection as follows:

''(A) The Secretary shall permit the sponsor of an investigation to meet with the Secretary prior to the submission of an application to develop a protocol for a clinical study subject to the regulation and require that the protocol be agreed upon in writing by the sponsor and the Secretary.

''(B)(i) The Secretary shall permit developmental changes to devices in response to information gathered during the course of an investigation without requiring an additional approval of an application for an investigational device exemption, or the approval of a supplement to the application, if the changes meet the following requirements:

''(I) The changes do not constitute a significant change in the design of the product or a significant change in basic principles of operation.

''(II) The changes do not adversely affect patient safety.

''(ii) The Secretary shall require that each such change shall be documented with information describing the change and the basis of the sponsor of application for concluding that the change does not constitute a significant change in design or operating principles, and that the change does not adversely affect patient safety.

''(b) CONFORMING AMENDMENTS.—Section 517(a)(7) (21 U.S.C. 360g(a)(7)) is amended—

(1) by striking ''section 520(g)(4)'' and inserting ''section 520(g)(5)''; and

(2) by striking ''section 520(g)(5)'' and inserting ''section 520(g)(6)''.

**SEC. 7. PRODUCT REVIEW.**

Section 513 (21 U.S.C. 360c) is amended by—

(1) in subsection (a)(3)(A)—

(A) by striking ''including clinical investigations where appropriate'' and inserting ''including 1 or more clinical investigations where appropriate'';

(B) by adding at the end the following: ''When evaluating the type and amount of data necessary to find a reasonable assurance of device effectiveness for an approval under section 515, the Secretary shall consider the extent to which reliance on postmarket controls may contribute to such assurance and expedite effectiveness determinations without increasing regulatory burdens on persons who submit applications under section 515(c).'';

(2) in subsection (a)(3), by adding at the end the following:

''(C)(i) The Secretary upon the request of any person intending to submit an application under section 515 shall meet with the person to determine the type of valid scientific evidence within the meaning of subparagraphs (A) and (B) that will be necessary to demonstrate the effectiveness of a device for the conditions of use proposed by such person to support an approval of an application.

''(ii) Within 30 days after such meeting, the Secretary shall specify in writing the type of valid scientific evidence that will provide a reasonable assurance that a device is effective under the conditions of use proposed by the person.

''(iii) Any clinical data, including 1 or more well-controlled investigations, specified by the Secretary for demonstrating a reasonable assurance of device effectiveness shall reflect the Secretary's determination that such data are necessary to establish device effectiveness and that no other less burdensome means of evaluating device effectiveness are available which would have a reasonable likelihood of resulting in an approval.

''(2) The determination of the Secretary with respect to the specification of the valid scientific evidence under clause (ii) shall be binding upon the Secretary, unless such determination by the Secretary would be contrary to the public health''; and

(3) in subsection (i), by adding at the end the following:

''(C) to facilitate reviews of reports submitted to the Secretary under section 510(k), the Secretary shall consider the extent to which reliance on postmarket controls may expedite the classification of devices under subsection (f)(1).

''(D) Whenever the Secretary requests information to demonstrate that devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to making substantial equivalence determinations. In making such requests, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and request information accordingly.

''(E) Any determinations of substantial equivalence by the Secretary shall be based upon the intended uses proposed in labeling submitted in a report under section 510(k).

''(F) Any representations made in promotional materials for devices shall not require a report under section 510(k), unless such representations establish new intended uses for a legally marketed device.''.

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By Mr. NICKLES (for himself, and Mr. INHOFE):

S. 871. A bill to establish the Oklahoma City National Memorial as a unit of the National Park System; to designate the Oklahoma City Memorial Trust, and for other purposes; to the Committee on Energy and Natural Resources.

OKLAHOMA CITY NATIONAL MEMORIAL ACT OF 1997

Mr. NICKLES. Mr. President, I rise today to introduce legislation with Senator INHOFE to establish the Oklahoma City National Memorial and create the Oklahoma City Memorial Trust. The memorial will commemorate the national tragedy ingrained in all of our minds that occurred in downtown Oklahoma City at 9:02 a.m. on April 19, 1995, in which 168 Americans lost their lives and countless thousands more lost family members and friends.

The Oklahoma City National Memorial, to be established as a unit of the National Park Service, will serve as a monument to those whose lives were taken and others will bear the physical and mental scars for the rest of their days. It will stand as a testament to the hope, generosity, and courage shown by Oklahomans and fellow Americans across the country following the Oklahoma City bombing. This will be a place of remembrance, peace, spirituality, comfort, and learning. The memorial complex will include a special place for children, 19 of whom were killed in the blast, to assure them that the world holds far more good than bad.

The memorial site will encompass the footprint of the Alfred P. Murrah Federal Building, Fifth Street between Robinson and Harvey, the site of the Water Resources Building, and the Journal Record Building. Both Park Service and non-Park Service personnel will staff the memorial grounds and interpretive center on the site. The Memorial Trust, comprised of nine unpaid trustees, will administer the operation, maintenance, management, and interpretation of the memorial.

While the thousands of family members and friends of those killed in the bombing will forever bear scars of having their loved ones taken away, the Oklahoma City National Memorial will revere the memory of those lost and venerate the bonds that drew us all closer together as a result.

I welcome all Members to cosponsor this important piece of legislation.

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By Mr. ASHCROFT:

S. 873. A bill to amend the prohibition of title 18, United States Code, against financial transactions with state sponsors of international terrorism; to the Committee on the Judiciary.

THE PROHIBITION ON FINANCIAL TRANSACTIONS WITH COUNTRIES SUPPORTING TERRORISM ACT OF 1997

Mr. ASHCROFT. Mr. President, I would like to introduce The Prohibition on Financial Transactions with Countries Supporting Terrorism Act of 1997. This legislation will further isolate state sponsors of international terrorism from the community of responsible nations. By prohibiting financial transactions between U.S. persons and such criminal regimes, this bill will also reduce the financial resources available to terrorist states.

Unfortunately, this is the second time the Senate has had to consider legislation to prohibit financial transactions with state sponsors of terrorism. The Anti-terrorism and Effective Death Penalty Act, passed by Congress and signed into law by the President on April 24, 1996, contained a similar provision—section 321—which prohibited financial transactions with state sponsors of terrorism. Unfortunately, the manner in which the State Department implemented section 321 effectively exempted at least two terrorist States, Sudan and Syria, from the ban on financial transactions with United States citizens.

The Clinton administration seemingly misinterpreted the clear language of section 321 which states that: . . . whoever, being a United States person, knowing or having reasonable cause to know that a country is designated . . . as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

Somehow, our Government read such plain language to permit—not prohibit—almost all financial transactions with terrorist states. The only transactions the lawyers down at Foggy Bottom saw fit to prohibit were financial transactions which might further terrorism within the United States. The bureaucrats at the State Department evidently feel that transactions which further terrorism against citizens of foreign countries or Americans abroad—such as Pan Am flight 103—should not be targeted by this law.

Mr. President, the Congress of the United States has worked extensively in a bipartisan manner to provide the legislative tools needed to defend America and our allies against the rising threat of international terrorism, and I am sorry that the Senate must now revisit this antiterrorism legislation to correct the misguided efforts of this administration to confront and isolate terrorist-supporting nations in an effective manner.

We no longer live in a cold war world where the threats to our national security are easily identifiable. The fluid and complex international environment we face today demands the highest national security vigilance, the kind of vigilance that appears to be lacking in the Clinton administration. The administration's abysmal performance in enforcing United States laws against the proliferation of weapons of mass destruction by China is now mirrored by the administration's evisceration of Congress' antiterrorism sanctions. This administration finds no inconsistency between President Clinton's claim in an August 1996 speech at George Washington University that America ''cannot do business with * * * terrorists who kill * * * innocent civilians,'' and the State Department issuing regulations for the Anti-terrorism Act that same month that permit most business transactions with terrorist states to continue.

Mr. President, terrorism is no longer a far away phenomenon that American only risk when traveling abroad. Terrorist violence that primarily targeted U.S. citizens overseas is now finding its way to American shores, and the most stringent U.S. antiterrorism policy will be essential to protect our citizens. State sponsors of terrorism possess a hatred of global dimensions, and America is one of their primary targets. Our policies must reflect this understanding.

Mr. President, in the Africa Subcommittee, I have followed closely the global efforts of one particular country on the list of terrorist nations. Since democracy was overthrown by a radical Islamic military coup in 1989, Sudan has quickly joined Iran as the worst of the world's state sponsors of terrorism. Sudan's Government harbors elements of the most violent terrorist organizations in the world: Jihad, the Armed Islamic Group, Hamas, Abu Nidal, Palestinian Islamic Jihad, Hezbollah, and the Islamic Group all run terrorist training camps in Sudan.

Those groups are responsible for hundreds of terrorist attacks around the world that have killed thousands of innocent people. Abu Nidal alone has been responsible for 90 terrorist attacks in 20 countries which have killed or injured almost 900 people. Jihad is responsible for the assassination of Egyptian President Anwar Sadat and Jihad's leader, Sheikh Omar abdel Rahman, is the ideological ringleader of the terrorists that attacked the World Trade Center and plotted to bomb the United Nations in New York. Another terrorist organization, the Islamic Group, regularly targets westerners in Egypt for attack and claims responsibility for the failed assassination attempt on Egyptian President Hosni Mubarak during his visit to Ethiopia in 1995. In addition to harboring such terrorist organizations, Sudan has also given refuge to some of the

most notorious individual terrorists in the world, including Imad Moughniyeh who is believed to be responsible for the 1983 bombing of the United States Marine barracks in Beirut which killed 241 American soldiers.

Sudan is not simply a favorite training camp for terrorists, Mr. President. The Sudanese Government actively supports this terrorist activity. For instance, Sudan reportedly provided the weapons and travel documentation for the assassins who attacked President Mubarak during his Ethiopia visit. Two Sudanese diplomats at the United Nations in New York conspired to help Jihad terrorists gain access to the U.N. complex in order to bomb the building.

The conspiracy to bomb the United Nations was just one in a series of terrorist plots to bomb numerous locations around New York, including the Lincoln and Holland Tunnels, the George Washington Bridge, and various U.S. military installations. Five of the twelve defendants convicted in this series of terrorist plots were Sudanese nationals. Thankfully, law enforcement authorities thwarted most of these tragedies before they occurred, but the earlier terrorist attack against the World Trade Center was carried out by the same broader terrorism network in New York and killed six people. Those who bombed the World Trade Center only expressed regret that the twin towers were not toppled as they had planned, a catastrophe that in an instant could have resulted in more American casualties than the entire Vietnam war.

Sudan's involvement in the conspiracy to wage an urban war of terrorism in New York makes it patently clear why our Government has justifiably designated some nations as state sponsors of terrorism and has imposed upon them the most severe penalties and sanctions provided by United States law. I am grateful that America has been relatively isolated from most of the world's terrorist violence, but just as terrorists have targeted Americans abroad in the past, they are now targeting Americans here at home. International terrorism is one of the great threats to our national security, but unfortunately yet another example of a national security threat this administration is failing to forcefully address. By cutting off the flow of financial resources to these rogue regimes, it will become more difficult for them to seed the globe with their acts of violent cowardice.

Mr. President, the legislation I am introducing today will effectively prohibit financial transactions with state sponsors of terrorism—regardless of whether the terrorist attack occurs within the United States or abroad. This prohibition is one step in the fight against international terrorism the administration is evidently unwilling to take.

An analysis of Sudan's involvement in international terrorism gives us an idea of the global designs of terrorist states. Business as usual should not proceed with such regimes, and President Clinton should not have to be coaxed into aggressively enforcing U.S. antiterrorism law to isolate these countries. This legislation will diminish the financial resources available to terrorist states for their campaign of violence and hatred, and I urge the Senate's prompt consideration and passage of this bill.

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By Mr. FAIRCLOTH (for himself and Mr. SHELBY):

S. 874. A bill to amend title 31, United States Code, to provide for an exemption to the requirement that all Federal payments be made by electronic funds transfer; to the Committee on Finance.

ELECTRONIC BENEFITS TRANSFER LEGISLATION

Mr. FAIRCLOTH. Mr. President, I am pleased to introduce legislation today that would modify the mandatory EBT legislation that was passed in 1996.

Mr. President, in 1996, the Congress amended the Federal Financial Management Act of 1994—as part of the Omnibus Appropriations Act of 1996, Public Law 104–134—to require that all Federal payments after January 1, 1999, be made by electronic funds transfer.

The legislation I am introducing today would provide an exemption from that requirement for Social Security and veterans benefits, except that a recipient may send written notification to the agency head authorizing that such payments be made electronically. Thus, the legislation makes it optional for the vast majority of Federal beneficiaries, particularly retirees.

This would affect nearly 20 million Social Security recipients who still receive their check through the mail. Also, nearly 40 percent of veterans benefits are still by mail.

Mr. President, I have found that many retirees are unaware of this requirement, and do not desire to have their checks electronically deposited.

Mr. President, these are not welfare checks. The Government should not force retirees to accept this mandate.

In fact, AARP testified before the House Government Reform and Oversight Committee last year, stating that ''AARP believes that direct deposit of federal payments should remain optional for current payment recipients.'' Further, AARP has found that Social Security recipients receiving checks by mail were clustered in a handful of States, including my home State of North Carolina.

Mr. President, many people worked all of their lives for these benefits. They have the right to receive them. Many people served their country for these benefits. The very notion that they will be told where their benefits are being sent is abhorrent. Further, it has even been suggested that benefits could be withheld if persons do not choose a bank to receive a check.

Mr. President, this is wrong. I am not opposed to direct deposit, but I am opposed to it being forced on people. I would urge the Senate to act soon on this legislation.

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## ADDITIONAL COSPONSORS

S. 121

At the request of Mr. MOYNIHAN, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Texas [Mr. GRAMM], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 121, a bill to amend the Internal Revenue Code of 1986 to provide for 501(c)(3) bonds a tax treatment similar to governmental bonds, and for other purposes.

S. 127

At the request of Mr. MOYNIHAN, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 278

At the request of Mr. GRAMM, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 278, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 387

At the request of Mr. HATCH, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 394

At the request of Mr. HATCH, the names of the Senator from California [Mrs. BOXER] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 419

At the request of Mr. BOND, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 509

At the request of Mr. BURNS, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 509, a bill to provide for the return of certain program and activity funds rejected by States to the Treasury to reduce the Federal deficit, and for other purposes.

S. 563

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 563, a bill to limit the civil liability of business entities that donate equipment to nonprofit organizations.

S. 564

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 564, a bill to limit the civil liability of business entities providing use of facilities to nonprofit organizations.

S. 565

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 565, a bill to limit the civil liability of business entities that make available to a nonprofit organization the use of a motor vehicle or aircraft.

S. 566

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 566, a bill to limit the civil liability of business entities that provide facility tours.

S. 598

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 598, a bill to amend section 3006A of title 18, United States Code, to provide for the public disclosure of court appointed attorneys' fees upon approval of such fees by the court.

S. 657

At the request of Mr. DASCHLE, the names of the Senator from Nevada [Mr. REID] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 714

At the request of Mr. AKAKA, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 714, a bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs.

S. 735

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 735, a bill to amend title 10, United States Code, to restore the Department of Defense loan guarantee program for small and medium-sized business concerns that are economically dependent on defense expenditures.

S. 766

At the request of Ms. SNOWE, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 855

At the request of Mr. FAIRCLOTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 855, a bill to provide for greater responsiveness by Federal agencies in contracts with the public, and for other purposes.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. GORTON, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of Senate Concurrent Resolution 29, a concurrent resolution recommending the integration of Estonia, Latvia, and Lithuania into the North Atlantic Treaty Organization.

## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the June 12, 1997, hearing to review the preliminary findings of the General Accounting Office concerning a study on the health, condition, and viability of the range and wildlife populations in Yellowstone National Park which is scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources has been rescheduled.

The hearing will now take place on Thursday, July 10, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC, instead of on June 12, as previously scheduled.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

## ADDITIONAL STATEMENTS

### HONORING ARGONNE-WEST SCIENTISTS

• Mr. KEMPTHORNE. Mr. President, I rise today to give recognition to four very important individuals involved in the advancement of engineering and science relating to nuclear activities for our country, and specifically within the State of Idaho. I would like to commend Douglas C. Crawford, H. Peter Planchon, John I. Sackett and Bobby R. Seidel on their various efforts in this area which have warranted top awards from the American Nuclear Society.

These four scientists, all employees of the Argonne National Laboratory-West, have made tremendous advances in terms of the science involving the safe generation of nuclear power. For example, Dr. Douglas Crawford was awarded the Young Member Engineering Achievement Award which recognizes a series of experiments on reactor fuels. Dr. Crawford has become a widely recognized expert in the handling, management, and treatment of plutonium. He is also the manager of the Engineering Division's Materials Technology Section at Argonne-West.

Dr. H. Peter Planchon, who serves as an Associate Director of the Engineering Division, received the American Nuclear Society's Seaborg Medal which is awarded for outstanding long-term individual excellence in nuclear investigation and study. Dr. Planchon developed reactor modeling and experiments which have led to the use of passive response to accidents in sodium-cooled reactors. His work and efforts were demonstrated in a 1986 experiment in which Experimental Breeder Reactor—II, at the time operating at full power, was exposed to accident conditions. The reactor safely shut itself down without operator intervention. Thanks to Dr. Planchon's efforts, subsequent tests have shown that simplified nuclear plants could be safely designed for the future.

Dr. John Sackett's contributions to fast reactor technology, resulting in new and better approaches to plant protection and safety, have earned him great recognition and the honor of receiving the Walker Cisler Medal. This medal is a special award which recognizes outstanding scientific or engineering research achievements in the design and development of the fast breeder reactor as applied to electric power generation. Dr. Sackett's efforts truly are outstanding scientific achievements which have led to better plant operation. He currently serves as the Deputy Associate Laboratory Director for Argonne-West.

And finally, the American Nuclear Society's Public Communications

Award was given to Dr. Bobby Seidel for his exceptional service in communicating unbiased facts regarding nuclear power to the public, which, as you know, Mr. President, is not always an easy task. Dr. Seidel directs the student and faculty programs at Argonne-West and was the propelling strength behind the planning and construction of the nuclear energy display for the Idaho Falls-Bonneville County Museum. This is a particularly important exhibition of nuclear technology for the people of the Idaho Falls area because so many times a hands-on look at how this process works is a much more effective means of education, rather than merely reading about such technology in a pamphlet or newspaper.

The American Nuclear Society is a nonprofit, international agency comprised of individuals who represent more the 1,600 corporations, educational organizations, and Government agencies. These people, most of whom are engineers, scientists, educators, and students, have created an astounding membership number of over 17,000. Each year, the society chooses the top contributors to the institutes of nuclear science and engineering, and recognizes them with distinctive awards, specific to their fields of work. I am proud to know that this year a few of these awards were given to four outstanding Idaho citizens.

Again, Mr. President, I would like to commend these gentlemen on their accomplishments and contributions to the nuclear scientific and engineering community. These individuals are a valuable asset not only to Argonne-West, but to all of us who rely on nuclear power as an inexpensive, renewable, and reliable source of energy.●

## THE BRONX RECEIVES RECOGNITION AS A TOP 10 ALL-AMERICAN CITY

● Mr. MOYNIHAN. Mr. President, the New York City borough once derided as ''the worst slum in America'' has been named an All-American City by the National Civic League. This achievement, announced last weekend by Bronx Borough President Fernando Ferrer, is the result of a decade of hard work and careful planning. Improved economic conditions have spawned a renewal of spirit; a cultural and economic renaissance that gives hope for the future.

In his 1997 State of the Borough Report, President Ferrer writes, ''Ten years ago, the Bronx was best known as the borough of window decals and trash-strewn vacant lots. Abandoned buildings. Illegal Medicaid mills. With its broken windows and broken dreams, the Borough of the Bronx stood as the international symbol of urban failure.''

What a difference a decade can make. The National Civic League Award confirms what the residents of the Bronx already knew; their community has undergone an unprecedented transformation. This metamorphosis is evidenced by strong economic growth, 522 new businesses, the preservation of the Old Bronx Borough Courthouse, improvements in transportation, 30,000 new housing units, new parks and recreational facilities, and a celebration of the cultural and ethnic diversity of the people of the Bronx.

President Ferrer, New York City officials and community leaders deserve our praise and our admiration. Together, they have earned an honor for the Bronx that makes all New Yorkers proud. In so doing, they have provided hope to other communities throughout the world. I ask that news stories from the New York Times and the Daily News be printed in the RECORD.

The material follows:

[From the New York Times, June 9, 1997]

THE BRONX IS NAMED AN ALL-AMERICA CITY

The Bronx—once called ''the worst slum in America'' by former President Carter—is one of America's top communities, the National Civic League said, announcing its annual top 10 All-America Cities.

Other winners were Fremont, Calif.; Hillside Neighborhood (Colorado Springs), Colo.; Aberdeen, Md.; St. Joseph, Mo.; Asheville, N.C.; Statesville, N.C.; Bismarck, N.D.; Aiken, S.C.; and Texas City, Tex.

The 48-year-old competition, sponsored by the Allstate Foundation, judges cities based on citizen participation, collaborative approaches to problem-solving, diversity and education, among other criteria. Each winner receives a $10,000 grant.

Genevieve Brooks, the Bronx's deputy borough president, said strong grass-roots efforts have helped stem crime, improve neighborhood blight and open access to primary health care for the poor. ''We are truly very excited that someone else sees the hard work that we have done,'' Ms. Brooks said.

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[From the Daily News, June 9, 1997]

AWARD BRINGS CHEER TO BRONX

(By Bob Kappstatter)

Aaaay. Don't diss the Bronx anymore.

The gritty borough—once called ''the worst slum in America'' by President Jimmy Carter—has kicked its arson-scarred stereotype.

It has been named one of the top 10 All-American Cities by the prestigious National Civic League, which recognized it for its long battle against crime and drugs.

''We are no longer one of America's best kept secrets, but one of its strongest success stories,'' crowed Borough President Fernando Ferrer, who handily rattled off a list of the borough's urban renewal accomplishments.

They range from 30,000 new and restored units of housing, to 522 new businesses representing an $460 million investment.

The 48-year-old competition, sponsored by the Allstate Foundation, judged 128 original entrants based on citizen participation, approaches to problem-solving, diversity and education, among other criteria.

Each winning community receives a $10,000 grant.

Celeste Ortiz, a member of the Undercliff-Sedgwick Neighborhood Safety-Services Council who participated in the competition, said she was ''excited to be living in a part of the city that is coming alive again.''

''Our morale has changed and now we see the Bronx as part of the city, part of America,'' she said.

Genevieve Brooks, now Bronx deputy borough president, was one of the original driving forces that helped turn the ashes and rubble of Charlotte St. and places like it into blocks of sparkling new homes.

She said strong local efforts have helped stem crime, erase neighborhood blight and open access to primary health care for the poor.

''We are truly very excited that someone else sees the hard work that we have done,'' Brooks said.

Other winners announced Saturday night in Kansas City, Mo., were Fremont, Calif.; Hillside Neighborhood (Colorado Springs), Colo.; Aberdeen, Md.; St. Joseph, Mo.; Asheville, N.C.; Statesville, N.C.; Bismarck, N.D.; Aiken, S.C., and Texas City, Tex.

Some 120 communities applied for the reward.●

## TRIBUTE TO THE ROBERTS VAUX MIDDLE SCHOOL MIGHTY BISHOPS

● Mr. SANTORUM. Mr. President, I would like to take a few moments of Senate business to congratulate a group of middle school students from Philadelphia. On April 29, the Roberts Vaux Middle School Chess Team won first place in their K–8 division at the National Scholastic Chess Championship in Knoxville, TN. Competing against 4,300 students from almost every State in the Union, team members also earned individual awards for the third and sixth best players in the Nation, as well as for the top sixth and eighth graders in their sections. Additionally, Vaux's Salome Thomas-El won a coach's award.

Collectively known as the Mighty Bishops, or the ''Bad Bishops,'' Demetrius Carroll, Charles Mabine, Earl Jenkins, Anthony Harper, Anwar Smith, Denise Pickard, Latoria Spann, Alisca Shropshire, Tanisha Edwards, Tyeisha Falligan, Donzell White, Thomas Allen, and Ralph Johnson have worked hard for this victory. For instance, the Mighty Bishops practiced at least 5 days per week for 3 hours each day. They used a library of chess books and some computer programs to learn strategies for all aspects of the game. More importantly, they sharpened their problem solving, critical thinking, and decisionmaking skills—skills that will help them not only in competition, but also in life.

Prior to winning the national championship, the team secured significant victories at other competitions. This past January, the Mighty Bishops received first place individual and fourth place team trophies at the Greater New York Junior High Chess Championship. At the U.S. Amateur Team Championship in Parsippany, NJ, Vaux received the top record of any middle school. I would also note that the Mighty Bishops placed second at the Pennsylvania State Championships.

Mr. President, I am proud of these students. These bright young people are a credit to themselves, their school, their families, and their community. I ask my colleagues to join me in congratulating the Mighty Bishops and in extending the Senate's best wishes for continued success.●

## TRIBUTE TO JOHN TALLMAN

• Mr. DURBIN. Mr. President, I rise today to pay special tribute to an exceptional hometown hero, John Tallman, who is retiring as president of the Bourbonnais, IL, Fire Protection District after 48 years of distinguished service.

On June 7, 1997 colleagues, friends, and family gathered to celebrate John's retirement after a lifelong commitment to the fire department and the community of Bourbonnais. He certainly deserves such recognition.

Although a farmer by profession, at age 28, John began his service with the volunteer-operated fire protection district as an appointed trustee and was then elected president. As testimony to his commitment and integrity, John has remained the only president in the fire protection district's 49-year history.

Over the years, John guided the fire protection district through remarkable periods of growth and modernization. Under John Tallman's tenure, the Bourbonnais Fire Protection District distinguished itself as one of the outstanding all-volunteer fire departments in the State. Improvements to the fire department facilities, equipment, and service instituted under John's direction enabled the department to better respond to the growing number of emergencies and helped save lives and property.

In addition to his duties with the fire protection district, John has also been a dedicated husband and father, an 18-year member of the Bourbonnais Elementary School Board, a farmer, and a 19-year member of the Kankakee County Board of School Trustees.

John is a role model for all Americans and I commend him for his selfless service and effective leadership to the citizens of Bourbonnais and of our State. A fellow firefighter once described John as being one of a kind. John Tallman leaves behind big shoes to fill, and his leadership and vision as fire protection district president will be missed.•

## IN REMEMBRANCE OF JOHN SENGSTACKE

• Ms. MOSELEY-BRAUN. Mr. President, today I would like to offer my most heartfelt condolences to the family, friends, and colleagues of John Sengstacke, Chicago Defender publisher and owner, a Chicago native.

Mr. Sengstacke was a man of vision, who promoted and created opportunities through his words and his actions. He was a person who valued commitment, always urging others to follow through. Under his tutelage, the Chicago Defender became one of the most widely read, informative, and important, independent newspapers for countless Chicagoans.

His was a courageous life, and he always took a stand against segregation and discrimination, always fought to give a voice to the voiceless. Most notable are his efforts as a member of Truman's committee to desegregate the military and his vigilant effort to get the first African-American correspondent into the White House.

He was clear that his role was not only to inform but to educate, by both his personal and professional actions.

John Sengstacke knew the power of the pen was one of the strongest weapons available to African-Americans. He worked tirelessly to get the National Newspaper Publisher's Association established, and it became an organization that would help more than 200 African-American-owned newspapers provide a voice for the African-American community.

We have truly lost one of our finest freedom fighters, but he left a legacy of tenacity and resilience that will endure.

We have much to celebrate in remembering the life of John Sengstacke. I thank John for his friendship, and thank him for blessing us with his legacy.•

## WEST VALLEY DEMONSTRATION PROJECT

• Mr. MOYNIHAN. Mr. President, I rise to note that May 28 was a significant day in West Valley, NY, and in the field of nuclear waste disposal. In 1982 we authorized the West Valley demonstration project, in which we would learn to take liquid nuclear waste and mix it with glass. The process is called vitrification, and yields ten foot high glass logs that can be stored safely. After 14 years of preparation, research, and testing, vitrification began last July. On May 28th the 100th glass log was produced.

The success of the vitrification process developed at West Valley and at the Savannah River in Georgia led the Department of Energy to select it as the preferred method of disposal for such wastes. This is an accomplishment that the many hundreds of people in western New York who worked on the project can be most proud of.

They have another 110 logs to go at West Valley, but it is clear that the technology works. It can and will be replicated at other sites around the country, helping to solve one of our most vexing and serious waste disposal problems. Moreover, vitrification can be used to store other types of hazardous waste without fear of leaking. I congratulate all those at Westinghouse and the many agencies involved with the West Valley project for achieving this milestone.•

## CBO COST ESTIMATES—S. 430 AND S. 210

• Mr. MURKOWSKI. Mr. President, when the Committee on Energy and Natural Resources filed its reports on S. 430, the New Mexico Statehood and Enabling Act Amendments of 1997 and S. 210, a bill to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes, the estimates from the Congressional Budget Office were not available. Those reports have now been received and I ask that copies be printed in the RECORD for the information of the Senate and the public.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, May 21, 1997.*

Hon. FRANK H. MURKOWSKI,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 430, the New Mexico Statehood and Enabling Act Amendments of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Marjorie A. Miller (for the state and local impact), and Victoria V. Heid (for federal costs).

Sincerely,

JUNE E. O'NEIL,
*Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 430—New Mexico Statehood and Enabling Act Amendments of 1997*

S. 430 would amend the New Mexico Statehood and Enabling Act of 1910 and would consent to amendments to the constitution of the state of New Mexico approved by the voters on November 5, 1996. These amendments generally concern the administration of the state's permanent trust funds. Congressional consent to the amendments to the constitution of the state of New Mexico is required before they can be implemented by the state government.

CBO estimates the enacting S. 430 would have no effect on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 430 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments. Enactment of this bill would give New Mexico state officials greater flexibility in investing and distributing the assets of the state's permanent funds.

The estimate was prepared by Marjorie A. Miller (for the state and local impact), and Victoria V. Heid (for federal costs). This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

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U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 2, 1997.*

Hon. FRANK H. MURKOWSKI,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 210, a bill to amend the Organic Act of Guam, the revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL,
*Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 210—A bill to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes*

Summary: S. 210 would make several changes to existing laws governing the relationship between the United States and the insular areas, which include Guam, the Virgin Islands, the Republic of the Marshall Islands, and others. In addition, the bill would establish the Commission on the Economic Future of the Virgin Islands and the Commission on the Economic Future of American Samoa to recommend policies and programs to assist the Virgin Islands and American Samoa in developing secure and self-sustaining economies.

Subject to appropriation of the necessary funds, CBO estimates that implementing S. 210 would cost the federal government about $6 million over the 1997–2002 period. In addition, the Joint Committee on Taxation (JCT) estimates that this bill would decrease federal revenues by about $14 million over the 2003–2007 period. Enacting this legislation also could affect direct spending by reducing the amount of offsetting receipts from the sale of federal property. Hence, pay-as-you-go procedures would apply to the bill. CBO estimates, however, that any potential loss of such receipts would not be significant.

S. 210 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 210 is shown in the following table. Assuming appropriation of the amounts specified in the bill for the costs of the proposed commissions and amounts estimated for other costs, CBO estimates that implementing S. 210 would cost about $6 million over the 1997–2002 period.

| | By fiscal years, in millions of dollars | | | | | |
|---|---|---|---|---|---|---|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
| SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Estimated authorization level | 1 | 2 | 2 | 1 | 1 | (1) |
| Estimated outlays | (1) | 2 | 2 | 1 | 1 | (1) |

[1] Less than $500,000.

The costs of this legislation fall within budget function 800 (general government).

*Basis of estimate*

*Spending subject to appropriation*

S. 210 would extend the Department of Agriculture's (USDA's) authority to continue shipping excess food commodities to the Marshall Islands through fiscal year 2001. According to the department, $581,000 was appropriated in fiscal year 1997 for the program. Of that amount, about $525,000 is for food commodities and about $55,000 is for administrative expenses. In addition, the bill would require that the amount of commodities provided to the Marshall Islands reflect changes in its population that have occurred since the enactment of the Compact of Free Association in fiscal year 1986. The amount provided to the program has varied since it began in fiscal year 1987. According to USDA, the program received about $1.6 million in 1987. Between 1988 and 1992, the program received, on average, about $465,000 a year. Since fiscal year 1993, $581,000 has been appropriated each year for the program. S. 210 only specifies a base year from which to calculate changes in the islands' population but not a base level of funding. The estimate adjusts the level of funding received in fiscal year 1988—$501,000—for changes in the price level and for changes in the population since fiscal year 1986. (CBO estimates that the population will have increased by about 60 percent between fiscal years 1986 and 1998.) Under these assumptions, extending the program would cost about $5 million over the 1998–2001 period.

The bill also would establish the Commission on the Economic Future of the Virgin Islands and the Commission on the Economic Future of American Samoa to recommend policies and programs to assist the Virgin Islands and American Samoa in developing secure and self-sustaining economies. Both commissions would have six members, and the bill would require that each commission file its report by June 30, 1999. The bill would authorize an average of $300,000 a year for fiscal years 1997 through 1999 for the costs of each commission. Assuming the bill would not be enacted until later this year, CBO estimates that outlays for the two commissions would total about $1.2 million over fiscal years 1998 and 1999.

S. 210 also would require, subject to availability of appropriated funds, that the Department of the Interior (DOI) take a census of Micronesia within five years of the decennial census of the United States population. A census of Micronesia would thus be required by fiscal year 2005. The bill would limit expenditures on the census to no more than $300,000. In addition, the bill would repeal a requirement that the Administration report annually to the Congress on the impact of the Compact of Free Association on the territories and the state of Hawaii. According to DOI, it has prepared three such reports since 1986. CBO estimates that savings from repealing this requirement would not be significant.

*Direct spending and receipts*

By granting the government of Guam the right of first refusal on any federal property declared excess on Guam, S. 210 could reduce the amount of offsetting receipts from the sale of surplus federal property. However, according to the General Services Administration (GSA) and DOI, a sale of federal property has never occurred on Guam. Also, the bill would require Guam to pay fair market value for any property transferred for private use. Therefore, CBO estimates that the provision would have no significant impact on federal receipts. In most or all cases, CBO expects the federal government would transfer the property anyway to the government of Guam under one of its public purpose programs.

Under current law, the Virgin Islands is required to secure its bonds with a priority first lien claim on specified revenue streams, rather than being permitted to secure multiple bond issues on a parity basis with a common pool of revenues. JCT estimates that if the priority lien requirement is repealed, the Virgin Islands would issue more tax-exempt bonds beginning in fiscal year 2003 than under current law. (Fiscal year 2003 is the earliest that the Virgin Islands can refund outstanding revenue bonds issued on a priority basis.) The increase in tax-exempt bonds, which would lower federal revenues, would occur because the Virgin Islands could secure a greater volume of bonds with the same amount of revenues if a parity approach were permitted. JCT estimates that repealing the priority lien requirement for revenue bonds would decrease federal revenues by $14 million over the 2003–2007 period.

If the Virgin Islands were also to receive the authority under separate legislation to refund the outstanding revenue bonds prior to their redemption date in fiscal year 2003, JCT estimates that this provision would decrease revenues by an additional $21 million over the 1998–2002 period and by an additional $2 million over the 2003–2007 period. These estimates assume that the Virgin Islands would refund the priority bonds in fiscal year 1998 and thus increase the volume of outstanding tax-exempt bonds. Thus, if S. 210 were enacted after the enactment of separate legislation authorizing the additional advance refunding by the Virgin Islands, JCT estimates that federal receipts would decrease by about $21 million over the 1998–2002 period and by about $37 million over the 1998–2007 period.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. While H.R. 210 could affect direct spending in fiscal year 1998 by reducing the amount of offsetting receipts from the sale of federal property, CBO estimates that any such effect would not be significant.

Estimated impact on State, local, and tribal governments: S. 210 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Some of the amendments included in this bill would benefit the affected governments—territories and freely associated states of the United States. Generally, the impact of these changes would be small. For example, the bill would give the government of Guam greater access to excess federal property. It would also give the government of the Virgin Islands additional options for issuing bonds and short-term notes.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: John R. Righter; Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.●

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT REQUEST—S. 419

Mr. LOTT. Mr. President, I ask unanimous consent that the Labor Committee now be discharged from further consideration of S. 419, a bill to prevent birth defects by developing and implementing new prevention and surveillance strategies and the Senate now proceed to its immediate consideration under the following limitation: One substitute amendment in order to be offered by Senator BOND, no other amendments be in order to the bill, and there be 30 minutes equally divided for debate with Senator BOND in control of 15 minutes, and the ranking member in control of 15 minutes, and further, following the disposition of the amendment, and the expiration or yielding back of time, the bill be read a third

time and the Senate proceed to a vote on passage of the bill as amended with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, Mr. President, I am a cosponsor of that particular legislation and I appreciate having the chance to debate it on the Senate floor. I think there is probably broad bipartisan support for it. But I have indicated to the majority leader on a number of occasions now our strong desire to delay the consideration of any other legislation until we have the opportunity to consider again the disaster bill.

There are people out there that have birth defects. There are people out there that do not have homes. There are people out there that do not have their farms, their businesses. There are people out there that do not have the opportunity to conduct their lives in a normal way that are waiting day by day for us to respond in a meaningful way to their circumstances.

People in 35 States now have been affected by the disastrous circumstances that are addressed in this piece of legislation. We ought not do anything until we have had the opportunity once more to consider that legislation. So on behalf of the Democratic caucus, Mr. President, I object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard. The unanimous consent request of the majority leader is not agreed to.

Mr. LOTT. I regret that the Democrats will not allow the Senate to consider this bipartisan legislation. I know there are a number of Democrats that are cosponsors of it. I presume we are going to find a way to consider this. This legislation would establish a national birth defects prevention research system. I point out that our bill is cosponsored not only by the Democratic leader, but Senator DORGAN, Senator HOLLINGS, Senator CAROL MOSELEY-BRAUN, just to name a few, and a number of Senators on this side of the aisle.

As I know the cosponsors are aware, an estimated 150,000 infants are born each year with serious birth defects, resulting in 1 out of every 5 infant deaths. The bill is designed to establish regional birth defects research programs, establishes the Centers for Disease Control as the coordinating agency for birth defects surveillance and prevention, and authorizes grants to public and nonprofit organizations to develop new public awareness to reduce the incidence of birth defects.

With regard to the supplemental bill, I presume that we are going to continue to work to try to find a resolution to this problem. I think I have proven over the past year that I always believe you can find a way to work through disagreements. Quite often here in the Senate, when we seem to be in an immovable position, when everyone is intractable, Senator DASCHLE and I have found if we go to the Senators that say, ''No deal ever,'' and ask them, ''OK, what's the solution?'' I think quite often they say, ''Well, we can do it this way or that way.''

What I have suggested to Senator DASCHLE and to the White House and to the House of Representatives and to the leadership in the Senate, including the chairman of the Appropriations Committee, is we can work together and see if we can come up with language that we can agree on with regard to this very important issue and with regard to preventing a Government shutdown at the end of the fiscal year and find a way to move the bill with some of the other language that is in there. Some of it may have to be removed; some of it may be compromised.

But, you know, compromise is not something where you work it out with yourself, on one side of the aisle or one side of the Capital. Now we have to work among ourselves, Republicans and Democrats, House and Senate and the administration. It involves engagement.

And I have asked several times along the last couple weeks, including last Friday and again yesterday, and including direct conversations with the President—''You know, can't we find a way to come up with some language that you can live with and that we can live with and move this issue beyond us and go on to other issues?''

I want to note also for one and all that this bill was originally requested to be $4.1 billion. It is now at least $8.6 billion. And it is not just funds for disasters around the country, it is also funds for the Department of Defense and a lot of other programs that were not originally requested.

I will just give you some idea what we are talking about. I hope I have the list here. It does include things like—and these are all good and fine programs, I guess—but $33 million I think it is for the Botanical Gardens, not exactly emergency disaster funding; $23 million for a parking garage in Cleveland, OH. I do not have the list here with me, but there is a long list of things that have been added along the way.

Barnacles have been picked up on this ship. So one of the things I have suggested is, while we continue to work to try to resolve the amount and the language—in fact yesterday I was asked by one of the administration officials—I do not want to put words in their mouth—''What is this objection that Attorney General Reno has to some money in the bill?'' I said to this person, ''Are you talking about the $2 million for a law enforcement commission?'' Would the President want to start talking about vetoing a bill because of $2 million for a law enforcement commission? I do not think so, but I would like to hear what their argument is against it.

One of the things I have suggested, with all honesty, and I did it back before the Memorial Day recess, rather than trying to negotiate this thing down or to solve all the language right now, we should go ahead and do a smaller bill that will provide the real emergency disaster and the urgent salary for DOD. That will still leave a lot of money and a lot of language that we will continue to work on.

I guess what I am saying here is that I would like to get this worked out. I would like for us to move on to the reconciliation bill. I would like for us to move on to appropriations bills. I had hoped we could do two or three appropriations bills before the Fourth of July recess, and I still hope we can put them in there tomorrow. I would like for us to take up some of the nominations that are pending. I would like for us to take up adoption legislation, legislation that passed the House with 465 votes, to make it easier to have adoptions in America. I did not bring it up last week because I found that we have a number of Senators on both sides of the aisle that have been working on that and have some good ideas, including Senator ROCKEFELLER, Senator DEWINE, Senator CRAIG, and Senator CHAFEE. They are working on it, and I think we may have a compromise adoption bill we could call up later on this week.

All I am saying here is let us go on and do some of these bills that we should be able to do in a relatively short period of time, including the birth defects research program, while we continue to see if we can work things out. I am ready. I am ready. Help me. I think we can find a way to get this thing done.

But it does not work this way. It does not work that the President says, ''Send me down a full plate of money, $8.6 billion —and, by the way, we do not want any of your language on it.'' I have gone back and I have looked at supplementals over the years, and there has hardly ever been a supplemental that did not have all kinds of extraneous language, all kinds of add-ons. If necessary, as the afternoon progresses, I will read the list. Many of the supplementals that went to President Reagan, President Carter, and President Bush had not one or two little pieces of language, lots of pieces. I will give you some idea of how on every supplemental, I believe without many exceptions, the Congress has expressed its will. We have input. We deserve some consideration. These are not insignificant issues.

I am not convinced, for instance, on census, that at some point, once we fully understand how the sampling might work, that we would not want to do that. I think I have real legitimate questions that I do not know the answers to yet. Rather than let the administration start on down the trail, and we will do this by sampling, I want to know for sure how that is going to be better than enumeration. I want to know who is going to do it, and how it will be done. I do not know the answers.

All I am saying is, take a time out on this issue, on census, until we have more time to work on it, and then we can resolve it this fall or even next year, but we should not get locked in now before we have had a chance to really look into it.

So, I yield to my colleague, Senator DASCHLE, and ask my colleague to answer this question: If the Senate cannot consider this bill today, would he be in a position, if we cannot do it today, to grant consent for the Senate's consideration during Wednesday's session of the birth defects research program bill?

Mr. DASCHLE. Mr. President, reserving the right to object, let me take the opportunity to respond to a number of points raised by the distinguished majority leader.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. The majority leader says that all disaster bills, all supplemental bills have had extraneous legislation. I suppose that is probably true. But I have also gone back and looked at all these disaster bills and extraneous legislation added to supplemental bills, and there is one difference between all of those in the past and this one: All of those in the past have the agreement of the President; all of those in the past have been negotiated with the White House.

So, of course, you had supplemental legislation. Of course, you had extraneous legislation. But each and every time when that happened, the White House said, ''Send it down. I will sign it.'' In this case, the President has said, ''Look, these issues are so controversial and so far reaching and so problematic that I cannot agree.'' And the difference between this experience and all the others is the majority said, ''We will do it anyway.''

Now, I give great credit to the Senator from Minnesota, the junior Senator from Minnesota, who sent all of us a letter in the last couple of days. The Senator from Minnesota had a very practical, pragmatic way with which to address this problem. What he suggested is that we simply take those controversial pieces out, have a good debate, have a discussion, see if we can find a compromise. Let's do it. Let's agree right now without any filibusters, without any delay. We can commit to a time certain for legislation dealing with census, for legislation dealing with a continuing resolution, for anything else that may be extraneous and onerous to the White House. We can agree to that.

Now, I have suggested that to some of my Republican colleagues and the answer I get is, ''Well, the President is going to veto those bills if they go in their current form and we don't want that.'' So, in a sense, what they are saying is, we will hold hostage our troops in Bosnia, all of the people detrimentally affected by the natural disasters, and every single other item in this legislation because we want our way. That is what we are being told.

Mr. President, there is no way to compromise with something like that.

Now, like the majority leader, I have tried to find ways, and I give him credit for trying to come up with innovative ways with which to address this problem, but I must say we are in a set of circumstances for which there can be no compromise when it comes to holding hostage victims of natural disasters, holding hostage people serving their country in Bosnia.

We cannot allow that to happen. So, let's take the suggestion made in good faith by the Senator from Minnesota. Let's take those pieces out, let's have a good debate on them, and maybe, in the process, we can find a compromise.

But until that happens, Mr. President, as I said a minute ago, we are going to object to any other piece of legislation coming to the floor. And I object.

## THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. LOTT. Mr. President, I ask unanimous consent to have printed in the RECORD at this point the list of some of the extraneous items that have been added to this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In millions of dollars]

| | |
|---|---|
| Highway trust fund | $694 |
| Title 1 grants (poor and disadvantaged schools) | 101 |
| VA compensation (mandatory) | 932 |
| WIC | 58 |
| Botanical Gardens | 33 |
| Law Enforcement Commission | 2 |
| Breast cancer research | 15 |
| Retired Coast Guard pay | 9 |
| Olympics counterterrorism fund | 3 |
| Indian health | 3 |
| California vineyards | 9 |
| Customs Service expenses | 16 |
| VA parking garage, Cleveland, OH | 12 |

Mr. LOTT. I note the figure I used on the parking garage in Cleveland, OH, was not the accurate number. It is actually $12 million. It also has other interesting things in here, including $3 million for the Olympics counterterrorism fund, $3 million for Indian health care, $9 million for California vineyards.

These may all be good programs and all deserving, but I wonder how they found their way into this supplemental appropriations bill.

Also, I was here during the 1980's and early 1990's. I remember how supplementals worked. Unfortunately, I used to plead with President Reagan not to send supplemental requests up here because I knew it would become a freight train pulling all kinds of things through. I remember Presidents of both parties objecting to things that Congress added to the supplemental appropriations bills. The one we had June 30, 1989, I see one, two, three, four, five, six, seven, eight, nine add-ons. Some are not exactly insignificant, either, like East European refugee assistance, foreign aid to Haiti, funds for the Washington Convention Center. The supplemental appropriations also had about nine add-ons, including renewing section 8 housing contracts.

Remember, supplementals are always alleged to be—while they may not all be natural disasters—they are always alleged to be somewhat emergency, or otherwise they would not be coming to the floor of the Congress saying, ''Give us some more money.'' Most administrations and Congress always underfund food stamp programs, knowing full well we will come back next year and add more money to it.

Again, some of this is pretty significant legislation and pretty costly, also.

The same thing again in 1991 and 1994. There is always language that is added. There is always funding that is added to these bills beyond what was originally requested. So, to infer that this is really something new or different is not the case.

Now, what I maintain is different here, if I could make this point.

Mr. DORGAN. Will the Senator yield?

Mr. LOTT. I will be glad to respond if I could make this point.

When I have suggested, and others have suggested, let's work together to work this out, I give credit to the Democratic leader. He has always been willing to listen, and I think that some of the things we have suggested he has been willing to think about and discuss with his colleagues. And he, like I, we cannot always say it will be this way or that way. We have a conference we deal with and you have an administration that you have to deal with. I have asked the President and his chief of staff, ''Please respond. Come back. Let's see if we cannot work this out.'' Basically, what they are saying is, ''Give us the money and no language. We want it our way and no other way.'' It does not work that way.

However, in the realization and in recognition of the need for some of this to be done, I am advocating while we continue to work on that, that we do a smaller bill that would address some of the concerns that the Senator from South Dakota has.

I yield to the Senator from North Dakota, if I could.

Mr. DORGAN. I very much appreciate that.

Mr. LOTT. Only for a question.

The PRESIDING OFFICER. The majority leader yields for a question.

Mr. DORGAN. I appreciate the Senator from Mississippi yielding for a question.

I ask the Senator if it is not unusual when very controversial amendments are added to disaster bills. I have been around here for some while, as well, and it is clear there have been on the other side of the aisle disaster bills, but not in my memory have very controversial measures been added to disaster bills that attract a Presidential veto and thereby delay or derail the bill.

It seems there are two ways out of this. I ask the Senator from Mississippi

about both of them. One approach to resolve this issue is an approach that I offered this morning on the floor by unanimous consent, and the Senator from Minnesota has also, I believe, suggested something similar, and that would be to simply take the two big controversial items out of this, pass the bill, get a Presidential signature and get disaster aid to the victims of disasters.

The second approach is an approach that the Senator from Mississippi seemed to suggest a few moments ago, and I would like to ask a question about that. As the Senator from Mississippi will recall, about 2½ weeks ago, just prior to the Congress breaking for the Memorial Day recess, there was some discussion that if the larger bill cannot go, at least extract the body of real disaster aid and allow that to happen quickly. Now, that could happen this afternoon if others around here believe——

Mr. LOTT. If the Senator would yield, I have been an advocate of doing that for probably about 3 weeks, and I would entertain doing it. I tell you why I said it to Senator DASCHLE earlier today, so that we can do something quickly. Even if we came to an agreement here in the next 24 hours on how we would do this, it would still have to go through the committees and both floors, with amendments in order. It would take time.

This approach that you are suggesting, and I am suggesting, could take 24 hours if we put our heads to it, and we could go on and continue to work and think about the additional money. And the language, keep it in mind now, I do not know how much they are worried about some of these other issues, but I have the impression from the administration that they have a couple of other issues that they are very, very interested in. So it is not just two.

But I am interested in, and I would like to work that out, and, again, we would have to do it over here, and we would have to get it done on the other side of the Capitol and the President would have to be willing to sign it.

I think that approach makes sense—that is all I am saying. Common sense around here usually works pretty darn good.

Mr. DORGAN. If the Senator will yield further for an additional question, we had someone on the other side of the Capitol suggest prior to the weekend break, if this does not get resolved the way we—that being them—want it, we may very well cut the amount of disaster aid that is available to victims of disaster. Over the weekend in North Dakota, we had a lot of folks reacting to that with some real quaking, wondering, what does this mean? I hope that cooler heads will prevail and some common sense will prevail.

I assume there has not been that discussion here in the Senate. We had bipartisan cooperation putting together the disaster portion of the bill, and for that we are very thankful. The trick now, the goal now, is to get that aid to people who woke up this morning and who are homeless, not just dozens but thousands of them, and the Senator suggests an approach I would support, and that is to take those portions of the bill that represent the aid that is necessary to go to disasters to help get their life back in order and pass that.

I ask the Senator——

Mr. LOTT. If I could——

Mr. DORGAN. I just ask if we could assume, with your willingness to do that rather quickly, what kind of impediments does the Senator see to having that get to the President for his signature in the next 24 hours or so?

Mr. LOTT. I think that could be done quickly. It would take—I don't think it could get done right here and how. I'd like to talk further with your leader. One of the problems with the appropriations is they generally begin on the other side. But in furtherance of what you are saying, I have discussed this this morning with the chairman of the Appropriations Committee here in the Senate and with the Speaker of the House. I presume he is consulting with his chairman and others. So I think this is the process by which we might move pretty quickly.

I think there are opponents to this. There are urgent things sort of now with regard to some of the disaster programs—perhaps some of the housing programs, perhaps some of the agriculture. There is a need to get this done as soon as possible because of weather considerations and so forth.

There is a second and third component. There are some other parts of it, some money that will need to be available and that will be available for months and even years down the line.

So there are really two parts of it. The part that is somewhat in the emergency category is different from what we usually have because you are talking about some new programs and some new ideas—which I think have some attractiveness, by the way. I have said that publicly and to the people from your States; I think it is the way to go. I think it would save money if we can find a way to move people out of what you call the flood way—what we call the floodplain in my neck of the woods—into areas where they will not be flooded year after year. That would wind up in the long run saving money.

So there is that part.

Then there is the funding for the longer term which could be available maybe for your State and may be available for other States as we look at these various disasters.

I will yield to the Senator from Missouri. But let me wrap this up. I am ready. I am willing. And I want to work with you to see if we can't do it that way.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I would like to ask the majority leader a series of questions that I think are necessary to clarify where we stand. I apologize for not being on the floor when he began.

I have the responsibility for the subcommittee that appropriates money for FEMA. I wonder—as has been made clear on the floor, the emergency money is now flowing. There is money—$2 billion in FEMA—that is going for the immediate needs right now. So there is money which can be paid out right now prior to the issuance of the completion of plans and assessments being available.

Is that clear? Has that been made clear?

Mr. LOTT. That has not been made clear, if I could respond to the question in this discussion. But I think repeatedly it has been noted that there is money in the pipeline. The distinguished Senator from Missouri is the chairman of the subcommittee that has jurisdiction in that area. He knows what is available and what should be available to FEMA for housing-type programs. Clearly those funds are flowing. We do need to prospectively for the future have additional funds. But the money is there.

I have spoken to the head of FEMA, James Lee Witt, to ask him that specific question. I have asked him, ''Do you need to do something more; something different? You do have the money, don't you? You do have temporary housing available, don't you? If you do not, we would like to help make sure that you have that temporary housing money available and the temporary housing available.''

So I think the Senator makes a very good point.

Mr. CONRAD. Mr. President, will the Senator yield?

Mr. BOND. If I could ask another question——

Mr. LOTT. If I could take another question, then I will go back to the Senator from North Dakota.

Mr. BOND. It has been made clear to our colleagues and to the people viewing this that before major disaster relief can start flowing, there has to be damage assessments. I guess it is the understanding of the majority leader that they are at least 2 weeks away from getting the damage assessments. The State has to have a plan submitted and approved by the Federal Emergency Management Agency. Dollars then go to the State from FEMA and from the Department of Housing and Urban Development. Is it the clear understanding that this is a long process which is not being held up during this day or tomorrow, but the money is needed, and we will provide it? But the time required to get the plans in place still has not been completed.

Is that the understanding?

Mr. LOTT. In answer to the Senator's question, that is my understanding. I have been through these disaster situations. I know there is a painful period during which you must have assessments and you must have plans. It is the most difficult time of all. It is actually worse a month after a disaster

than it is the day after, in some respects. Or certainly after 6 months you begin to see the light at the end of the tunnel.

We checked this morning from the staff standpoint with regard to FEMA funds available. I understand there is $1.5 billion available as of this morning.

So there are funds available, and they are, I believe, probably flowing to the various States that have been affected.

Mr. CONRAD. Will the Senator yield?

Mr. BOND. I have one final question to the majority leader. I very much appreciate his efforts to bring up the Birth Defects Prevention Act, which would deal with a very serious problem of 150,000 babies being born each year with birth defects in this country. We would like to go to it.

It is my understanding that, even if there were no other measure on the floor, the supplemental appropriations bill would have to come over from the House. There is no reason to filibuster or delay the Birth Defects Prevention Act, because taking care of this bill this afternoon will in no way delay the disaster. It will deal with the disaster of birth defects which we can deal with today without slowing down any supplemental emergency appropriations.

Is that correct?

Mr. LOTT. In answer to the Senator's question, it is absolutely right.

I thank the Senator from Missouri for his work on this legislation. He has worked for a good long while and with the help of a lot of other Senators.

He is absolutely right, also, that we have tried this afternoon, during which time we can do this birth defects legislation while we see if we can work out some agreement or some emergency disaster bill. It would have to pass the House. Also, in connection with the Senator's stand, we want to talk about the supplemental.

I am prepared to work with the Senator from South Dakota to make sure we have adequate time later on this afternoon and tonight to have a full discussion.

I thought last week having protracted discussion would have been counterproductive to trying to get an agreement, to get it completed. If the Senators feel strongly that they want time to do that tonight, my advice is to accommodate you in that effort. Of course, we will want Senators from our side of the aisle to have equal time or opportunity to speak also.

I thank the Senator for his questions. I know he is prepared and ready to go to the birth defects legislation.

Mr. President, I am glad to yield to the Senator from North Dakota for a question only.

Mr. CONRAD. I thank the majority leader.

Mr. President, is the majority leader aware that over the weekend on this question of the money in the pipeline that the Republican Congressman from Minnesota said this: ''Those who argue there is money in the pipeline are being disingenuous, at best. There is no money for housing, for livestock, sewerage systems, water supply, housing buyouts. There is no money in the pipeline for those things. They can't really rebuild without the funds that are tied up in the disaster relief bill.''

I would like to ask further, is the majority leader aware of what the Republican Governor of South Dakota said on this question? Janklow said, ''The delay in the legislation is blocking reconstruction of sewerage facilities, highways, and a state-owned rail line in South Dakota.''

He went on to say, ''I am not going to award contracts on the come. I'm not a fool.''

Janklow said, ''What happens if we award a contract and we don't have the money for it?''

Finally, I ask if the majority leader is aware that the mayor of Grand Forks has now written letters to the Senate and said the same thing and asked that the emergency provisions be stripped out—that is, the disaster provisions—and be passed so that in fact the aid can flow.

Is the Senator aware of those developments over the weekend: the Republican Congressman from Minnesota saying the money is not flowing in those specific areas; the Republican Governor of South Dakota saying the same thing; and, finally, the mayor of Grand Forks asking that we move the disaster provisions as expeditiously as possible because they are not getting the aid they desperately need?

Mr. LOTT. As a matter of fact, if I could respond to the question and comments, the Senator is suggesting right there at the end that we try to move the emergency disaster portion of this as expeditiously as possible. I suggested a way we can do that.

I want to remind the Senator also that this additional funding and authorization, I believe, would be available—would have been available yesterday—if the President had signed the bill, a bill that 67 Senators voted for. It would have been available yesterday just like that. But the President of the United States vetoed it because of language that he is not happy with, and, I repeat, a bill that got 67 Senators to vote for it, including, I think, a majority or very close to a majority of Democrats. I know why. And I know that there are some areas where the youth program is being suggested, and I hope we can find a way to move that expeditiously, as has been suggested.

Mr. CONRAD. Will the Senator yield for a further question?

Mr. LOTT. I understand we can't use these dollars until the plans are available to use them. Anyway, we are still waiting on plans from FEMA or from the States.

Mr. CONRAD. Will the Senator yield?

Mr. LOTT. Yes; I am glad to yield for a question only.

Mr. CONRAD. If I could ask the Senator, with this question of the money in the FEMA pipeline, is the Senator aware that there are other pipelines that deliver assistance that in fact don't have money in them? That is, housing doesn't have money in their pipeline, agriculture doesn't have money in their pipeline. So the reference to FEMA is very limited with respect to those parts of disaster relief that they address.

Mr. LOTT. In responding to the question, there are perhaps some programs or agencies that may not have specific disaster funds. I know that the Senator from South Dakota has advocated something new or different with regard to livestock, if that is an accurate way to put it.

I know that agriculture has a good bit of money that they could use in a variety of ways that would be helpful. But, as I understand it, this would be a new program which I am sympathetic to. But before any of this is done, I repeat once again, there has to be a plan.

I just say to my colleagues here again that as soon as we complete this dialog and then we hear from others who are awaiting to speak from both sides of the aisle, including the Senator from Minnesota, who wishes to be heard, I will be glad to talk further with the Senators from North Dakota, Minnesota, and South Dakota, or any other States. We can talk about how we can do this thing expeditiously while we continue to work on the bigger package.

Also, I would like to note, if I could, that we hope to move other issues in the days ahead.

I mentioned that I believe we hope to consider the State Department authorization bill next week, as well as the DOD authorization bill. We need to get this resolved as soon as we can so we can get on to those important issues.

I understand that my Democratic colleagues have also objected to the permission of committees to meet during today's session. One of those committees, which is very important, is the Armed Services Committee. The Armed Services Committee is marking up the Department of Defense authorization bill for the next fiscal year.

This year, unlike a lot of past years, I had the impression that the DOD authorization bill and the Armed Services Committee marking up is going smoothly and that it is not going to be as controversial as it has been in the past; that we may have one or two big amendments, but that this is something we can do in a relatively short period of time—perhaps 3 days.

The Armed Services Committee had three subcommittee meetings planned today in an effort to prepare or report the Department of Defense authorization bill.

I really regret that objection. Needless to say, this objection to committee meetings will only delay and hamper their ability to report this bill.

Then, of course, during the week of the 23d, the Senate will consider both

reconciliation bills, both the spending restraint and realignment-of-spending bill. And the tax legislation will be reported out of the Finance Committee.

So we are going to have long days and nights ahead of us. I want the Members to be on notice that we must get this work done before our Fourth of July recess. Therefore, in anticipation of that, Senators should be prepared to be here at least next week throughout all of the week and probably the next week, too. The objection to the birth defects bill, as well as the provisions for committees to meet, will only make these last few weeks even longer.

I understand what you are trying to accomplish here. I hope that we can find a way to allow the committees to meet, and I hope to do that later on this afternoon.

Then I would like also to talk to the Senator from South Dakota the Democratic leader about exactly what we need to do in terms of debate tonight and how long you are thinking about. Also, I need to talk to all of you about how we can move something very quickly and expeditiously.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. LOTT. Mr. President, I yield to Senator SARBANES for the purpose of a question only.

Mr. SARBANES. Will the Senator agree with me that all Members of the Senate have an interest in making sure that this disaster relief is provided to the people who have been hit by this extraordinary national disaster, and that there is a constant reference to the Senators from North Dakota, South Dakota, and Minnesota? Of course, they have been most immediately impacted, but it seems to me that every Member of the Senate has an interest in responding to this.

Mr. LOTT. In response to that question, why, of course. We all have that interest. As a matter of fact, 35 States have had some amount of disasters—whether it is flooding, freezes, or whatever it may be—including my own State, in which I think for three or four counties a request was made by our Governor to have disaster assistance available, which I might note has been turned down by FEMA even though the State right across the river, which was also flooded, was approved.

But in answer to the Senator's question, the Senate, the Congress, has always shown a desire to, as a matter fact, address natural disasters; and also a desire to avoid manmade disasters like the fiascoes we have had 11 times since 1981 of Government shutdowns that also cause people pain and suffering and loss of their jobs and income. So, yes, I feel that sympathy. I have been through it. I have been through hurricanes, tornadoes, freezes, droughts——

Mr. SARBANES. That is the other question.

Mr. LOTT. Ice on the trees, endless amounts, and we have always been sympathetic to each other, and we are this time. We are this time. We are going to provide the disaster assistance the people in the affected States need. We are going to do it.

Mr. CONRAD. Will the Senator yield? Can we do it today?

Mr. LOTT. The question is, how do we do it.

Mr. CONRAD. Can we do it today?

Mr. LOTT. I hope so. I would like to do that. But we can do it one or two ways. We can do sort of the new portion, the emergency portion, or we can work out an agreement on the bigger package. And I am ready to do either one of those. I think we can do it once we make up our minds to do it.

Mr. WELLSTONE. Will the Senator yield?

Mr. SARBANES. Will the Senator yield for one further question?

Mr. LOTT. I will yield.

Mr. SARBANES. I recall the Senator's own State was struck with a disaster.

Mr. LOTT. We have had them all. We have had them all.

Mr. SARBANES. We had a major hurricane, and I remember voting to send disaster relief to the Senator's State in order to meet that situation. I don't recall it being caught up in these kinds of delays.

Mr. LOTT. Well, understand once again——

Mr. SARBANES. In personal disaster relief.

Mr. LOTT. There seems to be an abundance of selective memory around here. I remember—in fact, I have been through how that disaster legislation has worked. In fact, I was a staff member one time on the biggest one of all where we did not have FEMA. We did not have existing law. In fact, if you go back and look at the history of what has led to FEMA, it was in legislation we drafted in 1969. The disaster occurred August 18, as I recall it was, something like that, and we had to rely on the Corps of Engineers and people, volunteers to come in and help us. It was weeks, weeks before we got the legislation and, in fact, got many of the programs to help us. In fact, we did not have a lot of the programs that are now on the books.

I am not saying that that is good. I think we have learned from that experience.

Mr. SARBANES. I hope so.

Mr. LOTT. I am glad we have been through that, and now we are going to provide, as we always have, the assistance that is needed to the people in America who cannot help themselves.

There is one thing that worries me about part of this bill. There is a lot of spending in here that does not relate to these disasters. It has just sort of been added as it's gone along, and I am not putting that just on Democrats either. A lot of these projects, if I go down the list, I can trace them back to some of my colleagues. But we are going to get this done. We can do the emergency stuff, and we can do the bigger package.

But right now everybody is trying to find a way to prevail or to claim victory or to get the PR victory, and I am not—I did not say you. I said we. And when we decide, once we make up our minds we are going to get this done, short term or long term, we are going to find a way to do it. But the fact is, as has always been the case—and it will be this time—the people who have been hurt and hit with these disasters in a variety of States are going to get the help they need.

Mr. WELLSTONE. Will the Senator yield for one final question?

Mr. LOTT. I will be glad to yield for a question from the Senator from Minnesota.

Mr. WELLSTONE. I thank the majority leader. Let me see if I understand what the majority leader said, and I think I do. I expect it to be a friendly question.

Mr. LOTT. I would not expect it to be any other way from the Senator from Minnesota.

Mr. WELLSTONE. The majority leader keeps saying he is determined to get this assistance to the people and he is determined to try and get this done this week. Have I heard that correctly?

Mr. LOTT. I would like very much to be able to do that. It is going to take more than just me though. But that is my desire.

Mr. WELLSTONE. I understand. But the reason I ask the majority leader this, since he is the majority leader, is that—and I put this in the form of a question. Is the majority leader aware—and I believe you are because I think that, agree or disagree on issues, you are very adept at sort of understanding the mood of people in Mississippi or for that matter in the country—is the majority leader aware that the people in our States are just getting sick and tired of it all and they do not understand all the debate about census and all the debate about continuing resolution and all the rest; they do not mind our having separate debate on that and they understand there are disagreements. They do not understand why we just cannot get a clean disaster relief bill to them.

Can the majority leader commit to us that that is what we will do this week, get a clean disaster relief bill that will provide the assistance to people that need it and we will get it done this week? Can the majority leader make that commitment?

Mr. LOTT. I say again I would like that to happen. I am hopeful, and I believe we can get a clean bill through this week but it will not be $8.6 billion. It would be only—the only chance we have to do that, what you are suggesting at this point, would be the truly emergency portions of the bill.

Now, we may also get an agreement on the bigger package and language that would be attached to it, but based on what I have experienced during the last 4 days, I think that is going to take a little longer.

Keep in mind now, I have not been up in Minneapolis, MN, or the delta of

Mississippi and not thinking about this. I have been on the phone. I have been probing. I have suggested a variety of ways to solve these problems. I did it on Friday. I did it on Monday. I did it last night. I am trying to find a way to solve this problem, and I am open to suggestions with regard to the census language, for instance. I confess this openly here because I am not ashamed of it at all. I went to the Democratic leader, and I said I think you see what our concerns are. Is there some language that you all could live with?

This is not insignificant. When you talk about changing the way the census is done, this is not without major implications. We do have language in the Constitution with regard to the census. I talked to the Secretary of Commerce this very morning. I am not sitting over in a corner just trying to outlast you guys. I have talked to FEMA, the head of FEMA. I have talked to the Secretary of Commerce. I have talked to the Chief of Staff of the President of the United States. I have talked to the President of the United States, the Democratic leadership, the Speaker of the House.

This morning I was talking to the Secretary of Commerce. I said one of the things—or he suggested one of the things we might do would be to set up a process where there could be a quick judicial determination of this constitutional question.

That is important. And census is important for more than just how you count. It is also important from the standpoint of how many representatives a State has—very important. It also has a great impact on how you get Federal funds. I have towns in my State of Mississippi, and I know it is true in Minnesota, that because of the census count, either undercounting or not proper counting programs, that are not eligible as far as some of our Federal programs, some of the Federal grants and loans, and so this is very important for a long time.

Mr. WELLSTONE. Last question.

Mr. LOTT. Sure. I will be glad to yield further for a question.

Mr. WELLSTONE. I will not hold the floor any longer. I just want to say to the majority leader I am a little troubled by the very lengthy explanation on the census count only because again I think the question that we have put to the majority leader is why not take that issue, around which there is disagreement, and debate it separately and why not take the issue of appropriations bills and the continuing resolution and debate it separately? But that is what we do not agree on. That is controversial. We can have an honest debate. Why link it to what should be a disaster relief bill——

Mr. LOTT. I have an answer.

Mr. WELLSTONE. Providing assistance to people in our States?

Mr. LOTT. I have two answers to that question.

Mr. WELLSTONE. Does the majority leader understand that in our States——

Mr. LOTT. I have two answers.

Mr. WELLSTONE. People do not care a lot about what the majority leader is talking about; they have got a whole lot of pain they are dealing with. We want to get help to them. Can we get the commitment to get help to them?

Mr. LOTT. As a matter of fact, I have two answers. I have suggested to you today, to the leader on your side of the aisle and the Senators from North Dakota, there is a way we can get the emergency funding and do it quickly if we make up our minds and are determined to do that while we continue to work on the solutions here.

But the other point with regard to the census, the reason why I make the explanation is to show once again an abundance—we can solve this. We can solve this problem, but there is a reason why we have to do it now. The die is being cast; the Census Bureau and the Department of Commerce have indicated we are going to do this. And if we wait until October to deal with this issue, we are going to be in a position of having to reverse something that is already set in place. They are getting ready to do it. So we do not have the luxury of saying, well, we will pick up on this in July or September or October. It would be a fait accompli by then.

So that is a consideration. But we will continue to work on that, and we will find—I think we can find a way to do this this afternoon.

Does the Senator from North Dakota wish to ask another question?

Mr. DORGAN. Yes. I do not want something the Senator said a moment ago to stand here and be misinterpreted. The Senator indicated potential existed—in the past some kind of emergency provision—that it would not be $8.6 billion. I want to make clear—I assume you do not mean, as some have suggested on the other side, that, well, if we come back to disaster relief, the folks who are waiting for that relief are going to get a whole lot less relief because we are going to cut it. That has been the implication by some.

Now, we have had agreement on the disaster package in this legislation. There has been no disagreement. Republicans and Democrats have agreed. We have put it in. It is done except it has not gotten through to the President for his signature. But I assume the Senator from Mississippi supports the full complement of disaster relief that is in the bill and is not in any way saying that he would at some point revisit and diminish the amount of disaster relief in the bill. Could you clear that up?

Mr. LOTT. I am not here to negotiate the exact amount. I think we have to work with the committee.

Mr. DORGAN. That is not what I am asking.

Mr. LOTT. Well, I am trying to answer the question. I am not going to say here that it is going to be—I do not know, for instance, what the exact amount is, what the total amount is that would be alleged to, or would be needed for the disaster assistance, so how can I say what the number would finally be? But I am prepared to say this, that there is a difference between the total amount that is requested over a period of months and years for disaster and those parts of it that are urgent, that need to be addressed now, and that is the part I am really focused on. But I am not prepared to say it would be even limited just to that. I think we need to look at what is really needed right now and in the short term or in the foreseeable future and go with that number. I think we have to talk—are you on the appropriations committee?

Mr. DORGAN. Yes. I was part of the conference.

Mr. LOTT. You would certainly be involved in that process.

Mr. DORGAN. But the Senator supported, when the bill passed the Senate the Senator supported the conference report that had this package of disaster assistance in it. I just do not want someone to misinterpret—maybe I am putting words in your mouth, but I do not want someone to misinterpret when you say, well, there may not be $8.6 billion. My assumption is that you support and others in the Senate support the quantity of disaster aid that was decided upon by the conference committee. Is that not correct?

Mr. LOTT. I also supported, I believe it was about $1 billion right before the Memorial Day recess.

Mr. DORGAN. That is correct.

Mr. LOTT. And I realize the situation is different now. But I do not know, I do not know how much different it is. I have supported a lower figure. I supported a higher figure.

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. LOTT. Now, look, again, this bill is $8.6 billion and it has got a lot more in it than just disaster aid. It has some disaster relief that is not emergency and not needed for months and even years.

Mr. DORGAN. If the Senator will yield for one additional question. I appreciate the majority leader's indulgence.

I am more concerned than I was before I left my chair.

My assumption has been that we negotiated a disaster relief package. It is significant. It is important. And it is vitally needed by the areas in my part of the country but many others around America as well, and I hope very much that there is no one here who seriously entertains backing away from that commitment.

In any event, one of the reasons that I ask this question is the piece that the Senator from Mississippi provided as samples of nonemergency spending in the supplemental included, for example, $694 million for the highway trust

fund. And let me just describe something. Maybe the Senator does not understand this, but we have, for example, in North Dakota right now a highway called Highway 57. It is a link to the Spirit Lake Indian Nation. It is now under water, incidentally. That Indian nation is virtually isolated out there, and there are young kids who need doctors' attention and medical help who at this point have to go far around in order to get it. Their lives are at risk. Commerce stops. Emergency medical assistance is not available. And so we need to deal with these emergency road needs, for example, in Devils Lake which has been flooded every year.

Mr. LOTT. If I can respond to that, it is interesting the Senator would raise that. As a matter of fact, I believe that one of the things that will probably be indicated as urgent disaster need would be in the transportation area which is different from the $694 million that is in the bill, and let me just emphasize this. The President in that area asked I think for about $300 million, but along the way that figure grew to almost $1 billion. I have seen this figure I believe that is there, $694 million. I think that has to do with ISTEA and the allocation formula and that there is a separate emergency transportation item that we might consider. It may not be accurate, but that is the impression I have. That $694 million is for funds all over the country not related to the disaster.

Mr. DORGAN. I would say to the Senator that I have visited with the Department of Transportation Secretary and others, and they are awaiting this disaster bill in order to unlock the money necessary to deal with these critical road problems in the one area I have mentioned, which is Devils Lake, where an entire Indian tribe is isolated out there because the roads are inundated with water. But let me go back to the point I originally made today to the Senator from Mississippi.

I urge you to consider this afternoon doing the following, which would very simply and quickly unlock this issue. There are two major stumbling blocks to having the President sign this disaster bill. One is the attachment of the anti-Government-shutdown provision and the second is the census issue. Let us, as the Senator from Minnesota and others have suggested, set them aside, debate them separately. We will not stand in the way of debating and voting on those issues. And let's take the other bill that has been crafted by a bipartisan majority, Republicans and Democrats in the Senate and the House, and I was on the conference committee, let us take that to the floor, vote it out, send it, and get it signed and get disaster relief. We could do that this afternoon.

I just don't understand why that is not possible today. Maybe the Senator from Mississippi can tell me why that is practically impossible. I would think it would be the easiest and most immediate solution to getting disaster aid to disaster victims.

Mr. LOTT. As a matter of fact, one of the things that amazes me is the President of the United States would veto a disaster bill because he doesn't want language in there that says we won't have a Government shutdown. As a matter of fact, if we can get this problem worked out now, it will avoid a problem we are surely going to have in October, where, once again, like we do almost every year, we have these fun and games where there is a threat of various departments or agencies or Government shutdowns that has been used by Democrats and Republicans—most effectively, by the Democrats. And all I am saying is, you know, we could work this out. I have suggested some language that I believe most of you could live with, and we ought to go ahead and do that and get this issue resolved and move on.

Of course, obviously, the purpose here would be to separate these things out where the President could veto them, if he wanted to, and not resolve the problem. Why move these on down the line toward another disaster—as I have already pointed out, a manmade disaster—at the end of the fiscal year?

## UNANIMOUS CONSENT REQUEST

Mr. LOTT. Let me just say, in order to allow other Members to speak, would the minority leader be willing to allow us consent to provide for speeches by Senators DASCHLE, GRAMS, HUTCHINSON, DORGAN, SARBANES, BOND, WELLSTONE, NICKLES, or his designee, say for 10 minutes each, and following those statements that I be recognized?

Mr. DASCHLE. Mr. President, there are many other Senators who want to be recognized to speak, so I wouldn't want to exclude other Senators who would like very much to participate.

Mr. LOTT. I would not want to exclude them. I think this would just get an agreement that these Senators that are here, waiting for an opportunity to speak—I would like to amend that list to include the Senator from North Dakota—that we get a lineup of speakers, led off by the distinguished Democratic leader. Senator GRAMS has been waiting to speak; Senator HUTCHINSON, who is an original cosponsor of the Government shutdown prevention language, and Senator DORGAN and Senator SARBANES have been waiting. Senator BOND is here and wishes to speak on his birth defects bill. That has been blocked now. It is a bill we should be able to have some limited debate on and get agreement to move on.

Senator WELLSTONE, I am sure, would like to be recognized, Senator CONRAD and Senator NICKLES, or his designee, for 10 minutes each with their statements, and then I be recognized at end of that group.

Then, if others come in, we will get time for others to speak, too. There is no desire to cut Senators off. I am just trying to set up some regular order where I don't hog all the time and I am in a position of saying to you I will yield for a question only so I do not lose control of the floor.

Let's set up an orderly process and we all get our chance to make our speeches, make our statements, without being just a question or response to the question. Would the Senator object to that?

Mr. DASCHLE. Mr. President, I would have two concerns. One is that some Senators may wish to speak longer than 10 minutes.

Mr. LOTT. Would you like to make it 15?

Mr. DASCHLE. Second, they may wish to come back and speak again.

Mr. LOTT. We wouldn't limit that, either.

Mr. DASCHLE. I wouldn't want it to be precluded.

Mr. LOTT. I hope before the afternoon is over, we will have an opportunity to get an agreement for an extended period of time of debate which would be open, with the normal recognition of the Chair and going back and forth on both sides of the aisle, that would go on for quite some time.

Again, I want to talk to the Senator about what length of time he is talking about.

Mr. DASCHLE. Mr. President, so long as no Member is precluded a second time or speaking for a period longer than 10 minutes at a later time, and so long as no other Senator is precluded from speaking at all by this unanimous consent request —I think that is the assertion, now, of the majority leader?

Mr. LOTT. If I could suggest, again, let's start with this and then I will talk to the Democratic leader, and we will go from there. This is just to get it started.

Mr. DORGAN. I reserve the right to object, and I ask the majority leader a question. On two occasions, on the two most recent business days, we were subject to a motion to adjourn and required to vote on that, even though many of us did not feel we should adjourn. We wanted to continue to discuss this issue and attempt to see if we couldn't get the Senate to do its business and pass a clean bill providing disaster relief.

I would just like to understand what we might face later today. I certainly would object to any unanimous-consent request propounded by anyone under any circumstances unless there is some assurance we are not going to face another motion for adjournment and simply be voted down and told the disaster bill is not a subject they want us to visit about on the floor of the Senate for any extended length. Some of us feel very strongly we would like to spend some time on the Senate floor talking about the disaster relief bill and ways to solve this so we can get disaster relief to disaster victims.

So, I guess, before I would agree to a unanimous-consent request, I would like to have some understanding

whether we are going to face an adjournment request later.

Mr. LOTT. Well, could I inquire if the leader would be willing to give us consent for our committees to meet, if we could go ahead and lock in a unanimous consent-agreement, or an agreement on how long you all would like to go tonight? Would the Senator like to respond to that?

Mr. DASCHLE. Mr. President, we discussed this matter in the caucus. I think it was unanimous in the caucus that committees would not meet this afternoon, because we really need to have attention focused on this issue. I am afraid I am not able to give that agreement to the majority leader.

Mr. LOTT. Mr. President, if I could say, then, I would like to—and I will talk to the Senators about how we do this—with their cooperation, and I am talking about not just committee meetings, because we will do what we need to do there. But when we begin the debate or comments other Senators are going to make, we will talk with you about how much time we think we need and how we will do that. It is my inclination today to try to get it worked out, where we could have an understanding, an understood period of time, and to not go with a motion to adjourn.

Mr. DORGAN. I wonder if the Senator would agree to the proposition that we not propose a motion to adjourn the Senate without agreement obtained with the minority leader for such a motion.

Mr. LOTT. You know, I am asking here for some process whereby the Senators from the various States would have a chance to make comments for a specified period of time. I asked for 10 minutes. Do you want me to expand that to 15?

Mr. DASCHLE. I think there are Senators who wish to speak longer than 10 minutes. Whether it is at the first opportunity or whether they have the opportunity to come back, that is a concern. But I share the concern expressed by the Senator from North Dakota.

Mr. LOTT. If I could—excuse me for interrupting you, but we are going to have an opportunity for them to speak now and speak again later. And we will have to work out the process to do that.

Mr. CONRAD. Reserving the right to object, what is the assurance that a Senator would not be precluded from giving a second speech? Because, as the majority has outlined this proposal, as I understand it, a Senator would be able to speak 10 minutes or 15 minutes, but then would be precluded from speaking again, unless the majority leader would alter his unanimous-consent request.

Mr. LOTT. I believe if we get another consent, that that would not apply. Of course, the way the Senate works, if a Senator asks for a specified period of time to speak, that usually is acquiesced to.

Here is the alternative. If you like, I'll just keep talking here. We can go right on until some other time here in the afternoon. But I would like to have a free-flowing discussion, so I would like to do it in an orderly way.

I asked unanimous consent, and then we will get an agreement, I presume later on, that we will have an extended period of time for debate during which Senators will be able to speak for extended periods of time.

Mr. DASCHLE. Will the majority leader yield?

Mr. LOTT. I am glad to yield.

Mr. DASCHLE. Would he entertain a unanimous-consent request which would say we would not adjourn without the consent of both leaders tonight? Because I think, if that were the case, then there would be no objection on this side to working through whatever schedule may accommodate speakers on both sides.

Mr. LOTT. It is my intent, Mr. President, to work with the leader and get an agreement on what time will be needed. I would like to do that. I prefer not to move for adjournment. I think we could work that out. I am indicating to you I would like for you to be able to have that time tonight. But I have been asked for three different things to agree to. I asked for one thing in return, and that's for committees to meet. I am going to have to go through a parliamentary procedure here in order for committees to be able to meet.

Let us do this. Let us talk while others are talking and we could work this out. I think there is no question we can get that done.

Mr. President, I renew my request that the Senators that I outlined be allowed to speak for 10 minutes and that I be recognized at the end of this list, at which time, if there are other Senators who wish to speak, they will be recognized or we will work out an order so the debate can continue.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, Mr. Leader, I say to you I would be forced to object if there is no assurance that the rights of this Senator and other Senators will be protected. Because, as the Senator has outlined, the Senator would be able to speak perhaps 10 or 15 minutes and that's it, under this formulation.

Mr. LOTT. I am saying to the Senator from North Dakota, I would like to be able to work with him to do that. I intend to do that. We will talk and we will make that agreement. We will make it in a request at a period of time after we have had some of these speeches so we can talk.

I don't know exactly what you all are thinking about or what you want, but there is no desire to cut the Senator from North Dakota off today. I want him to be able to make his case. I am going to work with you to do that, and I think the record will show I have done that sort of thing in the past. I am telling you here, now, we are going to find a way for you to be able to make the speech you want to make. What more can you ask of me now? And then, we will talk that through while others are speaking.

Mr. CONRAD. I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

## UNANIMOUS-CONSENT REQUEST—COMMITTEE MEETINGS

Mr. LOTT. Mr. President, I have five unanimous consent requests for subcommittees to meet during today's session of the Senate. I ask unanimous consent these request be agreed to en bloc and that each request be printed in the RECORD.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, my consent request was for the Armed Services Committee to meet on S. 450, the Department of Defense authorization bill. They are the Subcommittees on Airland Forces, Strategic Forces, Seapower, Acquisition, and Technology. Also, for the Subcommittee on Near Eastern and South Asian Affairs and the Subcommittee on Foreign Relations to meet on some very important issues, with witnesses to be Senator LIEBERMAN of Connecticut, Mr. William J. Bennett, and Michael J. Horowitz of the Hudson Institute, Father Keith Roderick of the Coalition for the Defense of Human Rights, prepared and waiting to testify before that committee.

The second panel includes Col. Sharbel Barakat, a witness from Iran, and an anonymous witness from Pakistan.

In addition to that, we asked for the Science, Technology and Space Subcommittee, Committee of Commerce, to meet with regard to NASA's international space program, which we have been working feverishly to make work, with other countries including Russia.

Those are the committees that are prepared to meet this afternoon. They have witnesses lined up of both parties and a variety of positions. That has been objected to. I thought it was appropriate we put in the RECORD that objection is heard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that the next hour be equally divided between Senators LOTT and DASCHLE and, at the end of that hour, that Senator LOTT be recognized to move to adjourn.

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, if I can inquire of the Senator from South Dakota, is it his desire that we not have any further debate at this time?

Mr. DASCHLE. Mr. President, it is the desire on the part of many of our colleagues to speak longer than the time allotted in the unanimous consent request, and it is certainly the desire of our colleagues not to allow the Senator the opportunity to adjourn the Senate. For that reason, I am compelled to object.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, we have very important committee work that needs to be done. As the Senate knows, the bulk of the work and the writing that goes on in the Senate does occur in committees at the hearings and markups. We have a very important markup now that we need to get done in the Armed Services Committee. The defense of our country is, obviously, something we want to pay very close attention to. We have less than a week in which the Armed Services Committee needs to complete its work.

I would prefer that we get an agreement that the Armed Services Committee, as is always—almost always—the case, be allowed to meet with these other committees. I understand the Senator has a problem, some objections from his conference. I also would prefer that we have an hour of debate equally divided so that Senators who have been patiently waiting for quite some time can be heard, including Senators here now, and Senator GRAMS of Minnesota who has been waiting to be heard.

I also had hoped that we could work together and get a time worked out whereby we could have extended debate tonight. It doesn't appear that we can work that out. So, I would be prepared to proceed at this time.

Does the Senator have any other comment he would like to make before I propound a unanimous-consent request?

Mr. DASCHLE. Mr. President, the distinguished majority leader mentions the defense markup. I also remind him, as he is very aware, there is money in this supplemental for our troops in Bosnia. Time is running out there, too. There is virtually no time left for us to get the supplemental assistance to the troops in Bosnia. It sends a terrible message to them not to address this legislation more successfully than we have.

I can't think of anything more important in that regard, not only to address the disaster victims but to address the troops in Bosnia, to address all of those who are waiting for some sign that we understand how difficult their circumstances are, including people defending our country in faraway lands.

So, I am compelled to object, and I only hope that at some point in the not-too-distant future, we are going to be able to resolve this matter, because they can't wait any longer.

Mr. LOTT. Mr. President, I also had hoped that we would be able to work out an agreement where there wouldn't be objection to my motion to proceed to the Birth Defects Prevention Act—this is broadly supported legislation; I don't see how there could be objection to it—while we continue to work to find ways to move other legislation while committees are meeting.

I understand the pressure that Senators feel on both sides of the aisle on other issues, but I don't see why that should cause us to halt or prevent us from taking up a very noncontroversial, broadly bipartisan supported legislation like S. 419.

I am also hopeful that this week we could take up the adoption legislation that we have been holding in abeyance for a week. And the Senator from Ohio, Senator DEWINE, has done very good work on that and I believe is prepared to spend time on the floor when we call up that legislation. I hope it will be in the next coming days.

Let us be clear about what this legislation does, the birth defects legislation. No one in this body needs to be told that birth defects are the leading cause of infant mortality in this country. They are directly responsible for one 1 of every 5 infant deaths. Here is a chance to do something about that, not in a week, not in a month, but this afternoon with, I am sure, not very long debate but enough debate so that the issue can be properly addressed.

We have spent the last couple of hours or so talking about other issues other than this bill which we had hoped to call up and begin debating.

No one needs to be told that every year some 150,000 infants are born with a serious birth defect. Here is a chance to do something about that.

Here is a chance to foster the most effective—and, by the way, the most cost effective—ways to prevent birth defects.

We now know that folic acid vitamin supplements can prevent spina bifida. We know that programs to promote avoidance of alcohol, especially early in pregnancy, can dramatically reduce a whole range of birth defects.

We want to get that knowledge out to those who need it. Senator BOND's bill would do that through regional research programs to identify the causes of clusters of birth defects.

His bill, which, by the way, is cosponsored by more than a score of Senators on both sides of the aisle, makes the Centers for Disease Control the lead agency for surveillance of birth defects and prevention activities to reduce their incidence.

His bill proposes grants to public and nonprofit groups to foster public awareness in ways to prevent birth defects. It would also set up a National Information Clearinghouse on Birth Defects.

This legislation, to which there has been objection, is really important and is endorsed by a wide range of groups: The American Academy of Pediatrics, the American Association of Mental Retardation, the American Hospital Association, the Association of Maternal and Child Health Programs, the American Public Health Association, the Council of State and Territorial Epidemiologists, the March of Dimes, the National Association of Children's Hospitals, the National Perinatal Association, the National Easter Seal Society, and the Spina Bifida Association.

On their behalf, I again renew my concern. There has been objection to this bill. On their behalf, I ask that we confer and see if we cannot find a way to bring up this legislation, if not today, tomorrow, while we work on other solutions to other problems.

It is not a partisan issue. It is not controversial. And all that Senator BOND has sought has received support across the political lines and he has urged that we take it up this week. It would be different if it were controversial or if this were a partisan issue. But it is not. It is one that I think we certainly need to get passed. And a lot of good work has gone into it. And I will continue to ask that it be brought up this week. And I will certainly confer with the leaders on the other side of the aisle as we try to find a way to bring to the consideration of the Senate legislation that would help with this very serious and very difficult problem of birth defects.

So now I ask——

Mr. DASCHLE addressed the Chair.

Mr. LOTT. I will be glad to yield for a comment or question from the Democratic leader.

Mr. DASCHLE. As I indicated earlier, Mr. President, I am a cosponsor of this legislation. So obviously I am very supportive of it. But it should be noted this legislation has not had a hearing, it has not been marked up in the committee.

The majority leader—and it is his right to do so—is discharging the committee to bring this bill to the floor. Now, that is an abnormal procedure. That is not something we do every day. Yet the distinguished majority leader has seen fit to bring this bill to the floor without an official markup, and then to amend it with an amendment that we only saw late yesterday. And so it is really not normal legislative procedure to consider a bill of this import, even though there may not be much controversy associated with it, to discharge it, to amend it with an amendment nobody has seen, and to move in this process.

So it is not only our concern for the disaster legislation but our concern for

process here that makes me skeptical about the approach the distinguished majority leader has chosen to employ in this regard. So I would hope we could work together, if we can once get this disaster bill passed, to take up the bill, but I really hope we can respect the normal order here and allow the committees to move and to consider bills and then report them out, put them on the calendar, and take them up off the calendar as we would in normal circumstances.

But I thank the majority leader for his willingness to allow me to comment on that particular bill.

I yield the floor.

Mr. LOTT. Mr. President, I would respond to that, if I could, that certainly it is again not controversial. There has been a lot of work done on it. There have been hearings on this bill. And I believe an almost identical provision, if not identical, was a part of the comprehensive health legislation that came up last year. That was a different Congress, but it is not as if it is a new idea. It has been around for awhile. And a number of Senators are very familiar with what it would do, including the Senator from South Dakota.

Mr. President, because he has been so diligent in his effort to wait to be heard, and recognizing that it does not appear we are going to be able to work out some agreement where he could make a statement, I, if I can, yield to the Senator from Minnesota for the purposes of a question so that he could at least address a question that frames his concerns in this area.

Mr. GRAMS. Thank you very much, Mr. Leader.

I just would like to take a few moments to address a couple concerns and questions. And as I think we are all very disappointed in the fact that yesterday President Clinton vetoed the emergency aid bill which would provide $5.5 billion in disaster relief nationwide—and that comes with a major portion of those dollars directed toward rebuilding and repairing those communities that have been devastated by floods in my home State of Minnesota and, of course, the Dakotas—our legislation I think sent a very clear message that the people of Minnesota have not been forgotten by Congress at this time.

And I just really am concerned and disturbed by the fact that the President has used, as his primary excuse for vetoing the emergency flood relief bill, our inclusion of a measure that would go on to protect these very same victims this fall from what could become a manmade disaster if we do not come to some time agreement between the Congress and the President on funding legislation in the budget debates coming this fall. So for those reasons, I raised repeatedly on the floor that I believe that delivering this bill to the President is of utmost importance.

And I just ask the leader if all considerations have been made or taken into account of trying to get this issue to the President again, to have him somehow—I would like to remind my colleagues who voted for this bill a week ago, that if they say these issues are so controversial, why did they then vote and approve this bill by 67 votes, as the majority leader said, last week and move this on to the President?

So when they say that we are unbending and not willing to compromise on the issue, that it is ''our way or no way,'' really that is what we are hearing from the other end of Pennsylvania Avenue, that if it is not the President's way, it will be no way.

Mr. LOTT. Mr. President, I will respond to the question and comments framing that question by the Senator from Minnesota. I appreciate what he has had to say. And I appreciate his interest in getting this assistance provided. He has been constructive and helpful in that he has been suggesting a variety of ways we could try to come to an agreement on how to proceed here.

He is absolutely right that, as a matter of fact, what we passed last week was a compromise. There had been funds added, language added. And, as a matter of fact, the language dealing with the Government shutdown prevention was a compromise provision. Senator MCCAIN, one of the original sponsors, along with Senator HUTCHISON, offered an amendment and actually raised the level of funding whereby the Government would continue basically at the current year level until an agreement was reached on the next year's appropriations bills.

So it was compromise language. I mean, it should not go without people's notice that it got 67 votes here in the Senate. This matter can be resolved. It can be done quickly. It could have already been dealt with if the President just signed the bill.

The President is not without tools to work with the Congress. But he must understand—and I know the American people understand—that we, as representatives of the people, have a coequal voice in this Government. We have a right to be heard. And we have a right to have very important issues that we are concerned about addressed.

So I again appreciate the Senator's patience here and his suggestions. I know he is going to continue to work with leadership on both sides of the aisle and across the Capitol where he served in trying to find an appropriate solution to this problem.

Mr. GRAMS. I thank the majority leader.

Mr. LOTT. Mr. President, I would also like to inquire of the Senator from Texas. Senator HUTCHISON, had indicated that she had hoped to be able to speak. I wonder if she has a question she would like to propound at this time because I would be able to yield to her at this time, under the rules we find ourselves confronted with, only for a question. So I ask that she frame her comments in the form of a question.

Mrs. HUTCHISON. Thank you, Mr. President.

I was really wanting to question in the arena of a timetable for kinds of disaster relief.

It was indicated by one of the Senators from North Dakota that perhaps it was all or nothing, as if the entire supplemental appropriations bill was part of an emergency disaster. And I was just going to ask the distinguished majority leader if he was not thinking that perhaps there are certainly judgment calls that we can make.

I think the majority leader is saying that if we are going to make some very slimmed down bill to provide for emergency assistance—I think the distinguished majority leader would agree with me, there is also $30 million for plane crash investigations; $6 million to the FBI to reimburse New York State, but New York State has had ongoing expenses with regard to TWA flight 800; $197 million for the National Park Service; $103 million for Fish and Wildlife; $67 million for the Forest Service; $20 million for the Bureau of Indian affairs; $585 million for the Army Corps of Engineers.

I am just wondering if the majority leader doesn't think that perhaps these are supplemental appropriations that are not of an emergency nature and that maybe Congress would be able to make a judgment call if in fact we were talking about emergency relief. Because it seems to me that some of the Senators are saying that, ''Look. We want everything, but your issues aren't important. The issue of process, of not being able to shut down Government isn't important.''

It may not be important to someone on the other side of the aisle, but it is very important to many people on our side of the aisle that we have a process by which we say to people, here is what you can expect. Veterans can expect to get their pension benefits on time, regardless of whether Congress and the President have not agreed on a particular appropriations bill, that Federal employees can expect to get their checks on time regardless of whether there is an agreement between the President and Congress.

So, you know, I think that there are a lot of issues. And I sincerely believe that it is important for us to set the process of how we are going to handle appropriations this year. Perhaps others do not think that is important. But to say, ''You take all of our issues. Throw away all of yours. And that's the only thing that will be acceptable,'' seems to me to be a little unreasonable.

I just ask the majority leader if he would put all of these other supplemental appropriations in the same position as some part of the emergency bill that really is an emergency where funds really might not be available if there are funds like that?

Mr. LOTT. Mr. President, in responding to the question by the Senator from Texas, obviously I think that she

is suggesting a route that is appropriate. There is a difference between a supplemental appropriations in its normal sense and a supplemental appropriations that includes some emergency provisions. Clearly, they could be separated out and moved as the Senator from Texas has suggested.

I want to commend the Senator from Texas for her work as a member of the Appropriations Committee, a member that knows what is in the bill and what is not. And I think some Senators have not had an opportunity to look at all the things that have been added in terms of language and additional spending and programs which may be worthwhile but which are much more in the supplemental range, not in the emergency range, and also could be dealt with in the regular appropriations process.

We are in the period of time now in this year when we ought to be doing our regular appropriations bills. And the need for a supplemental for many of these provisions has been long since past.

Also, I just have to say, the idea of resolving this issue about the annual confusion at the end of the fiscal year, the threats of and in fact the shutdowns of programs or Agencies, Departments of the Government, that idea originated with the Senator from Texas and Senator MCCAIN. They are the ones who said we need to resolve this now, not October 1 or October 15 or November 1 when we are going through these fiascoes.

The suggestion was that we solve this problem now. The language that was introduced, which was subsequently compromised, by the way, to raise the funding above what the Senator from Texas wanted, originated from her.

I challenge anybody in this institution or anywhere to suggest that the Senator from Texas is not concerned about the need for the disaster assistance or the funds for the Department of Defense. She knows that this issue is important, and she also knows it can be resolved. It can be resolved quickly and it can be resolved in terms of working out language that would serve the American people well in stopping these annual Government shutdown activities.

I commend her for the work she has done, the leadership she has provided, and for the fact she continues to say we can work through this with language which may be different from what she originally started with but with language that is acceptable, or that we go with emergency language only.

I yield to the Senator from Texas for a further question.

Mrs. HUTCHISON. I appreciate the distinguished majority leader yielding to me for a question because I do have a question. I think it is not a matter even of the supplemental appropriations, that they are not worthy, but I think timing is the issue.

I just sense that all of a sudden the ground is shaking. First they said, ''Just pass the clean emergency help to the victims.'' That was the first thing that was said. Now, then, you said, well, OK, let's talk about what is an emergency, and I am seeing all of a sudden a different argument, a different argument that says, oh, wait a minute, what do you mean, that there might be some parts of this bill that would not be part of the emergency?

In fact, there are billions in this bill that are supplemental. They are good. We hope they will pass. But they are not an emergency.

So if you are going to say that it is not important to provide for the orderly transition of fiscal years right now in the first appropriations bill that has come on the floor this year—Mr. President, I think the distinguished majority leader will agree that we have not had another appropriations bill on the floor. If we are not going to set the process right now for how we are going to handle the transition of fiscal years in an orderly and responsible way, when would we do it? Would we do it 1 month before the end of the fiscal year so people would not be able to plan, so that we would not know for sure exactly what was going to happen, so that Federal employees would not know for sure that we would not have another Government shutdown, so that veterans would not know for sure that their pension checks would be on time?

I think to say that now all of a sudden it is not just emergency relief but also everything in the supplemental appropriation which is important to many people in this body—but so is the resolution about not shutting down Government important to a number of people in this body.

I think the distinguished majority leader in good faith said, well, would you like for us to consider a pared down emergency for anything that would not be covered already under the Federal Emergency Management Agency funds which we know have at least $2 billion in the coffers right now that are going right now to the victims in North Dakota, South Dakota and Minnesota? The money is going in. There may be a few places where it is not going in, so the distinguished majority leader, as I understand it, is saying, OK, we should make a list of those where there really is an emergency, not supplemental but emergency, and would you consider working with us to pass that?

Now, all of a sudden, it seems that the argument is changing and we are saying, oh, no, we not only need the emergency appropriations that might not be covered if there are categories like that, but, in addition, we must also have all of the supplemental appropriations for the National Park Service, for the Fish and Wildlife Service, for the Forest Service, for the Bureau of Indian Affairs, for the Army Corps of Engineers, for the Postal Service fund, for the bulk cheese price survey, for the food stamp changes, for grants to local education agencies. Now, I have no doubt these are important appropriations, but are they emergency? That is the question that I ask the distinguished majority leader.

Once he said, ''I am willing to talk about a pared down real emergency,'' all of a sudden it seems to me that now we are shifting to a different issue. We are shifting now to a whole different argument, and they are saying you have to take everything in the bill that the distinguished Senators from North Dakota want, take out everything that the distinguished Senators on this side of the aisle were hoping to get in the way of process to establish a process in the appropriations bill, the first one this year.

It is like saying we have all the cards. But that is not the way America is. We work together here. I think we have the ability to determine if there are emergencies that are not being met, and if that is the issue, then I think we would be able to solve it.

I just ask the majority leader if he believes that we have the ability to determine what is an emergency and what is a supplement.

Mr. LOTT. Mr. President, clearly, the Senator from Texas, Senator HUTCHISON, is right on this. She knows her business. She is on the Appropriations Committee.

I do not know what the exact figure is but probably of the $8.6 billion in this supplemental, well over half of it could not remotely qualify as disaster. It is probably in the range of $5 billion to $6 billion of the $8.6 that would not qualify as emergency disaster, either because it is not directly needed and/or because it could be handled through the regular appropriations bills. Clearly, a large portion of this bill would not qualify as emergency disaster. Again I do not know the exact amount. We have to hear further from the committee members, and I presume we will as the time goes forward.

Mr. DORGAN. I wonder if the Senator——

The PRESIDING OFFICER. Does the majority reader yield?

Mr. LOTT. I will yield if the Senator allows me to make a couple of points. I want to go back and reconfirm something I said a moment ago to make sure it is correct in the RECORD.

The bill that we are trying to get brought up, the birth defects bill, is not a new bill. It was one that has had a lot of work, and the substitute that we have now is going to be considered when we get permission to bring it up. There has been objection to bringing up the birth defects bill by the Democrats. It is almost identical to the language that was approved by the committee on Labor and Human Resources in 1995 and passed the full Senate in September 1996 as part of the Health Profession's Education Consolidation and Reauthorization Act, S. 555.

So the Senate is familiar with this. The Senate has worked on it. The Senate has voted on it. It is not a new

issue or one that we are trying to put out without it having been considered by committee or having been considered by the full Senate in the recent past.

I want the RECORD also to reflect that I have tried to get the Democrats to agree for the Armed Services Committee to meet, and other committees, on very important issues. They have objected to bringing up the birth defects bill. They have objected to the Armed Services Committee meeting, the Foreign Relations Committee meeting, the Science Committee from meeting. I even offered an opportunity for us to divide an hour of debate time equally on both sides and to get an agreement where we could have extended debate tonight, and I suggested even as late as midnight, 6 hours, 7 hours, whatever amount of time that might have been called for. But that was not accepted because they would not agree for the Armed Services Committee to meet and to do their markup work.

I want to say again, my Democratic colleagues have objected to bringing up the birth defects bill, they have objected to very important committees meeting with very important witnesses, and a markup of the Department of Defense. They have objected to dividing the time equally so all Senators can be heard in 10-minute segments of their own time, and they have even refused an offer that I have made for this debate to go on for an extended period of time, perhaps even as late as midnight tonight.

Now, before I make any further motion, did the Senator from North Dakota have a question he would like to ask? And I yield for the purpose of a question.

Mr. DORGAN. I do, and of course the majority leader has the power of scheduling in the U.S. Senate. The objection that we raised was an objection based on the understanding that the unanimous-consent request propounded by the majority leader was that he would remain in control at the end of the period of whether we had an opportunity to speak again and when we had an opportunity to speak again.

We have had, on two occasions now, a motion made to adjourn the Senate and a vote on that, and the majority leader has then adjourned the Senate twice last week and now apparently today, and some of us feel very strongly that we wish to continue to discuss and to push and prod to see if we cannot get a disaster bill passed without the extraneous or unrelated amendments attached to it that have caused a veto.

Now, the reason I rise to ask a question, as I listened intently to the question asked by the Senator from Texas—and she indicated to the majority leader that this was, really, the only appropriations vehicle or the first appropriations vehicle that was available for her to exercise an option to deal with the continuing resolution or Government shutdown amendment.

In fact, there is a House appropriations bill on the calendar, H.R. 581, that the Senator from Texas and others who wish to propose their amendment could offer to attach their amendment to. In addition to that, there are 13 additional appropriations bills that will follow that they can certainly attempt to attach their amendment to.

But the title of this piece of legislation is an appropriations bill making emergency supplemental appropriations for recovery from natural disaster and so on. I am assuming that those who decided to attach it to this piece of legislation did so because by its very title it is an emergency supplemental appropriations bill for recovery from natural disasters.

The Senator from Texas makes the point, as the Senator from Mississippi, there are some things in here that are not an emergency. That is a quarrel I suspect the Senator would have with the Appropriations Committee heads and others. There may well be some things in here that are not an emergency. I have no objection to taking those things and moving them aside and passing the disaster portions of this bill.

I say that it seems to me, at least viewing it, that those who have attached this amendment to this bill have done so believing that this bill is a must-pass piece of legislation because it is an emergency and, therefore, it is a way of moving their agenda along on this Government shutdown amendment. My point is there are 13 more bills. Do it on another bill. Do it on the House bill resting at the desk of the Senate, but do not do it in a way holding up disaster relief.

I am happy to propound the question. It is now 2½ weeks beyond the adjournment for the Memorial Day recess, which is the time when we should have passed this legislation, 2½ weeks beyond that, and the fact is we are now in a circumstance where it does not appear we are any closer to passing a piece of legislation that the President will be able to sign. Will the majority leader, at least from the Senate side, indicate to us that he feels that we can get this thing passed this week in a manner that allows it to be signed?

Mr. LOTT. I would be willing to work with him in that regard. I think we definitely can do it. I believe we will have some time here in a moment where maybe we can talk about that.

Here is the chairman of the Appropriations Committee. He is convening. I have seen him work miracles before, and I know he is prepared to do that again this time with the help from the Senators from North Dakota and the Senator from Texas.

Does the Senator from Oklahoma wish to ask a question with regard to the situation?

Mr. NICKLES. If I could just ask a question, because I understand our colleagues from North Dakota wish to speak on this issue. I know some colleagues on this side of the aisle would like to speak.

Correct me if I am wrong; did you not offer to allow debate on this and other issues, maybe debate as late at 12 o'clock tonight? That is almost an additional 8 hours.

Mr. LOTT. I knew it came as a shock to the Senator from Oklahoma, but he is right.

Mr. NICKLES. I did not want to stay for all of that, but I think the Senator from Mississippi, the majority leader, is being generous with time.

If our colleagues are going to object to the offer that the majority leader made, I do not think they are showing good faith, and that does not increase the likelihood of getting things done.

Now, correct me if I am wrong; I ask the majority leader this question, the majority leader asked permission for the committees to meet?

Mr. LOTT. Correct.

Mr. NICKLES. And stated his intentions to allow the Senate to be able to debate this and other issues on time equally divided; is that not correct?

Mr. LOTT. That is correct.

Mr. NICKLES. My comment would be to the majority leader that I think you are being very generous and I hope our colleagues will cooperate.

Mr. LOTT. Mr. President, I appreciate the questioning of the Senator from Oklahoma, and I say that the procedure which I am about to carry out here has been forced by the fact that we can't get consideration of the birth defect legislation, we can't get permission for key committees to meet, and we can't get a time agreement on how the debate will occur.

## QUORUM CALL

Mr. LOTT. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3]

| | | |
|---|---|---|
| Bond | Grams | Nickles |
| Conrad | Hutchinson | Stevens |
| Coverdell | Hutchison | Thurmond |
| Dorgan | Inhofe | Wellstone |
| Gorton | Lott | |

The PRESIDING OFFICER. A quorum is not present.

## VOTE ON MOTION TO ADJOURN

Mr. LOTT. Mr. President, I move that the Senate stand in adjournment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Louisiana [Mr. BREAUX], the Senator from Nevada [Mr. BRYAN], the Senator from Florida [Mr. GRAHAM], the Senator from Nebraska [Mr. KERREY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New York [Mr. MOYNIHAN], and the Senator from West Virginia [Mr. ROCKEFELLER], are necessarily absent.

The result was announced—yeas 55, nays 37, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—55

| | | |
|---|---|---|
| Abraham | Frist | McConnell |
| Allard | Gorton | Murkowski |
| Ashcroft | Gramm | Nickles |
| Bennett | Grams | Roberts |
| Bond | Grassley | Roth |
| Brownback | Gregg | Santorum |
| Burns | Hagel | Sessions |
| Campbell | Hatch | Shelby |
| Chafee | Helms | Smith (NH) |
| Coats | Hutchinson | Smith (OR) |
| Cochran | Hutchison | Snowe |
| Collins | Inhofe | Specter |
| Coverdell | Jeffords | Stevens |
| Craig | Kempthorne | Thomas |
| D'Amato | Kyl | Thompson |
| DeWine | Lott | Thurmond |
| Domenici | Lugar | Warner |
| Enzi | Mack | |
| Faircloth | McCain | |

NAYS—37

| | | |
|---|---|---|
| Akaka | Feinstein | Levin |
| Biden | Ford | Lieberman |
| Bingaman | Glenn | Mikulski |
| Boxer | Harkin | Murray |
| Bumpers | Hollings | Reed |
| Byrd | Inouye | Reid |
| Cleland | Johnson | Robb |
| Conrad | Kennedy | Sarbanes |
| Daschle | Kerry | Torricelli |
| Dodd | Kohl | Wellstone |
| Dorgan | Landrieu | Wyden |
| Durbin | Lautenberg | |
| Feingold | Leahy | |

NOT VOTING—8

| | | |
|---|---|---|
| Baucus | Graham | Moynihan |
| Breaux | Kerrey | Rockefeller |
| Bryan | Moseley-Braun | |

The motion was agreed to.

## ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER. A quorum is present.

The Senate stands in adjournment until 12 noon on Wednesday.

Thereupon, the Senate, at 4:40 p.m., adjourned until Wednesday, June 11, 1997, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate June 10, 1997:

DEPARTMENT OF THE INTERIOR

PATRICK A. SHEA, OF UTAH, TO BE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT, VICE JIM BACA.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN E. RHODES, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

*To be colonel*

JOHN M. METTERLE, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

*To be lieutenant colonel*

JOHN J. EGAN, 0000,

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT IN THE MEDICAL SERVICE CORPS, ARMY MEDICAL SPECIALIST CORPS, VETERINARY CORPS, AND ARMY NURSE CORPS (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTION 624, 531 AND 3283:

*Major*

*DOREEN M. AGIN, 0000
CRAIG M. ANDERSON, 0000
*JAIME B. ANDERSON, 0000
*ANULI L. ANYACHEBELU, 0000
*DERRICK F. ARINCORAYAN, 0000
*KARYN L. ARMSTRONG, 0000
KEVIN R. ARMSTRONG, 0000
*MARK A. ARTURI, 0000
*JOHN A. AUSTIN, 0000
MICHAEL A. AVILA, 0000
GILBERTO AYALA, 0000
*MORGAN L. BAILEY, 0000
*HOLLY S. BAKER, 0000
LEWIS L. BARGER, III, 0000
PATRICK C. BARRETT, 0000
IDA R. BECKHAM, 0000
*MARY L. BEMENT, 0000
SERGIO R. BENITEZ, 0000
JOSEPH P. BENTLEY, 0000
*ROSANN M. BIERMAN, 0000
JOSEPH M. BIRD, 0000
DONNELL L. BLAKEY, 0000
ANNETTE BOATWRIGHT, 0000
MICHAEL A. BORDERS, 0000
JONATHAN E. BRANCH, 0000
*EDWARD J. BRIAND, 0000
*CHRISTINE J. BRIDWELL, 0000
*DEANNA A. BROWN, 0000
*CHERYL L. BROWN, 0000
*SANDRA S. BRUNER, 0000
MICHAEL J. BUCKELLEW, 0000
GLENN M. BULLARD, 0000
*PRICE V. BULLOCK, 0000
WILLIAM M. BURNS, 0000
*ROBERT J. BUSH, 0000
LARRY D. CADE, 0000
*MARTHA E. CALDWELL, 0000
*WENDY R. CAMPBELL, 0000
LINDA R. CARMEN, 0000
SCOTT A. CARPENTER, 0000
WILLIAM E. CARTER, 0000
*CRYSTAL D. CHATMANBROWN, 0000
*RODNEY S. CHRISTOFFER, 0000
RICK F. CLABAUGH, 0000
NOLAND P. CLARK, JR. 0000
*PAMELA S. CLUFF, 0000
*MARIE T. COCHRAN, 0000
*SHARON D. COLE, 0000
*LYNN C. COLLINS, 0000
*CAROLYN M. COMER, 0000
REYNALDO T. CORONADO, 0000
*BERNARD C. COURTNEY, 0000
*LINDA R. COURTICE, 0000
*MELANIE J. CRAIG, 0000
*MICHAEL D. CRANDELL, 0000
*PATRICIA A. CRANE, 0000
*BONNIE L. CRON, 0000
DAVID N. CROUCH, 0000
*TIMOTHY A. CUEVAS, 0000
*JEFFREY N. CUNDIFF, 0000
*MARY J. CUNICO, 0000
*MICHAEL F. DALEY, 0000
*ALLAN J. DARDEN, 0000
*PATRICIA DARNAUER, 0000
*RICHARD N. DAVID, 0000
*CHRISTOPHER F. DAVIS, 0000
*PAULA DAVISBONNER, 0000
*MICHAEL P. DELANEY, 0000
PATRICK N. DENMAN, 0000
*ROBERT F. DETTMER, 0000
*DEBORAH M. DICKSON, 0000
*REBECCA L. DOUGLAS, 0000
*TERENCE M. DUFFY, 0000
*STEVEN M. DUNIHO, 0000
DAVID K. DUNNING, 0000
RONALD A. DUPERROIR, 0000
PAUL H. DURAY JR., 0000
ROBERT A. EATON, 0000
TIMOTHY D. EDMAN, 0000
*RONALD E. ELLYSON, 0000
PATRICK S. FAHERTY, 0000
DAVID P. FERRIS, 0000
CLODETH C. FINDLAY, 0000
SAUL FORD JR., 0000
*GRETEL FOSTER, 0000
KIRK J. FRANK, 0000
*XIOMARA I. FRAY, 0000
RONNY A. FRYAR, 0000
LAWRENCE V. FULTON, 0000
*DOROTHY F. GALBERTH, 0000
JOHN M. GARRITY, 0000
*STEVEN M. GERARDI, 0000
*PETER GEREPKA, 0000
MARK A. GIFFORD, 0000
ROBERT V. GLISSON, 0000
ARDIE R. GODBEE, 0000
SUSAN D. GOODWIN, 0000
*CHRISTOPHER D. GRAHAM, 0000
*SANDRA A. GREIDER, 0000
ROBERT J. GRIFFITH, 0000
*PAULINE V. GROSS, 0000
*ARLIN C. GUESS, 0000
STEVEN D. HALE, 0000
*ROBERT B. HALLIDAY, 0000
*STEPHEN K. HALL, 0000
LANETTE R. HAMILTON, 0000
*JOHN K. HARMER, 0000
*JEFFERY L. HARRE, 0000
ANTHONY D. HAWKINS, 0000
HARRY M. HAYS, 0000
GARY A. HAZLETT, 0000
DAVID G. HEATH, 0000
MICHAEL S. HEIMALL, 0000
MICHAEL E. HERSHMAN, 0000
PHILLIP L. HOCKINGS, 0000
*YOSHIO G. HOKAMA, 0000
TIMOTHY N. HOLT, 0000
*THOMAS E. HONADEL, 0000
*DENISE L. HOPKINS, 0000
*ROBIN G. HOUSTON, 0000
*THOMASINE S. HOWARD, 0000
RONALD D. HOWES, 0000
LORI A. HULL, 0000
*MELINDA L. JACKSON, 0000
SCOTT K. JACOBSEN, 0000
*RICHARDSON D. JAMES, 0000
*TERI M. JEFFERSON, 0000
*WANDA D. JENKINS, 0000
ROBERT B. JIMENEZ, 0000
JENNIFER L. JOHNSON, 0000
*TODD O. JOHNSON, 0000
NANCY L. JONES, 0000
*SHEILA Y. JONES, 0000
*DAVID C. JOSS, 0000
STEPHAN KASER, 0000
*VIVIAN A. KELLEY, 0000
*BRYAN K. KETZENBERGER, 0000
KYUNG M. KIM, 0000
JEFFERY S. KING, 0000
*ERIC R. KOCH, 0000
RION D. KOON, 0000
*PETER A. KUBAS, 0000
BRIAN J. KUETER, 0000
*KIMBERLY J. KURTZ, 0000
*MARTIN M. LAGODNA, 0000
*RONALD L. LANDERS, 0000
ANDREW J. LANKOWICZ, 0000
*KAREECE L. LARRY, 0000
DAVID A. LATCH, 0000
DENNIS P. LEMASTER, 0000
*PAUL C. LEWIS, 0000
DODOO J. LINDSAY, 0000
TIMOTHY L. LOBNER, 0000
*ALICE D. LUBBERS, 0000
LORENZO F. LUCKIE, 0000
DONALD O. LUNDY, 0000
TIMOTHY P. LYONS, 0000
*MARK A. MALZAHN, 0000
*KELLY A. MANN, 0000
*JANICE E. MANO, 0000
GERARD MARTELLY, 0000
MARY R. MARTIN, 0000
*ROBIN L. MARTIN, 0000
*MICHAEL E. MARTINE, 0000
*LAWRENCE N. MASULLO, 0000
*NOEL L. MATHIS, 0000
*RANDY D. MCDONALD, 0000
RICHARD E. MEANEY, JR., 0000
*LISETTE P. MELTON, 0000
*MARGARET E. MERCER, 0000
CHARLES B. MILLARD, 0000
WILLIAM B. MILLER, 0000
KATHLEEN MILLER, 0000
*MICHAEL J. MONEY, 0000
JOSEPH C. MORGAN, 0000
ROSALYN A. MORRIS, 0000
PHILIP M. MURRAY, 0000
MICHAEL T. NEARY, 0000
*RENEE L. NELSON, 0000
*JANICE F. NICKIEGREEN, 0000
MONICA L. OGUINN, 0000
JOHN M. OLSON, 0000
*JOAN M. ONEAL, 0000
CLAUDIA M. OQUINN, 0000
ALEX G. ORNSTEIN, 0000
DONNA L. PAGANO, 0000
MELISSA A. PALIANI, 0000
THOMAS E. PAUL, 0000
*JOSEPH M. PAULINO, 0000
MIA S. PELL, 0000
JEFFREY E. PETERS, 0000
*LISA A. PETTY, 0000
*ANGELA J. POWELL, 0000
CHARLES M. PRICE, 0000
*ROBERT C. PUGH, 0000
SCOTT J. PUTZIER, 0000
*WILLIAM L. RANDALL, 0000
*FREDERICK M. RICE, 0000
PAUL R. RIVERA, 0000
DAVID W. ROBERTS, 0000
*ETHEL L. ROBERSON, 0000
*NANCY D. ROBLESSTOKES, 0000
JOHN P. ROGERS, 0000
STEVEN D. ROTH, 0000
*MICHELE D. ROUNDS, 0000
STEVEN T. RUMBAUGH, 0000
*MICHAEL D. SADLER, 0000
*WENDY A. SAWYER, 0000
*KEVIN J. SCHALLER, 0000
WILLIAM F. SCHIEK, 0000
*BRUCE H. SCHMIDT, 0000
*BRYAN D. SCHMIDT, 0000
*DEBORAH J. SELBER, 0000
*MARY K. SELMAN, 0000
VAN SHERWOOD, 0000
*CATHERINE M. SHUTAK, 0000
NASIR SIDDIQUE, 0000
THOMAS C. SLADE, 0000
ROBERT D. SLOUGH, 0000

PETER H. SMART, 0000
*KIMBERLY A. SMITH, 0000
STEPHEN D. SOBCZAK, 0000
JOHN SPAIN, 0000
THADDEUS T. SPENCER, 0000
*BELINDA L. SPENCER, 0000
ELIZABETH J. STEAD, 0000
*MICHAEL M. STEELE, 0000
*PAUL D. STONEMAN, 0000
*CHRISTOPH R. STOUDER, 0000
*MICHAEL E. STREETER, 0000
*LOIS C. STUBBS, 0000
JENNIFER R. STYLES, 0000
STEPHEN G. SUTTLES, 0000
*MARK L. SWOPE, 0000
CARMINE F. TAGLIERI, 0000
*ROLAND B. TALLEY, 0000
*RONNIE H. TALLEY, 0000
CASMERE H. TAYLOR, 0000
*PATRICIA E. TERRY, 0000
JOHN V. TEYHEN III, 0000
*CHERYL L. THIESCHAFER, 0000
CLARENCE D. THOMAS, 0000
GWENDOLYN H. THOMPSON, 0000
KIMBERLY A. THOMPSON, 0000
RICHARD E. THORP, 0000
*REVA THOROUGHMAN, 0000
JOHN P. URIARTE, 0000
*ELIZABETH A. VANE, 0000
DORRIS L. VARNADO, 0000
*EDNA L. VELAZQUEZ, 0000
THOMAS L. WAGNER, 0000
*JOY A. WALKER, 0000
*DALE G. WALLIS, 0000
*CHARLES K. WALTERS, 0000
SCOTT L. WARNER, 0000
*BARRY D. WHITESIDE, 0000
*KAREN M. WHITMAN, 0000
*CARON T. WILBUR, 0000
*STEPHANIE C. WILCHER, 0000
ANDREW C. WILKINSON, 0000
*JOSEPH G. WILLIAMSON, 0000
SHARON W. WILLIAMS, 0000
DAVID W. WILSON, 0000
*BONNITA D. WILSON, 0000
*JENNIFER L. WOLENSKI, 0000
EDWARD L. WOODY, 0000
*CHERYL YATES, 0000
DIANE M. ZIERHOFFER, 0000
*DONALD G. ZUGNER, 0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY IN THE MEDICAL CORPS OR DENTAL CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

*major*

BRET T. ACKERMANN, 0000
LAN L. ADAMS, 0000
PETER J. AHN, 0000
ANTHONY W. ALLEN, 0000
SUZANNE AMIDON-MAGRO, 0000
HENGAMEH ANARAKI, 0000
LISA M. ANDERSON, 0000
JENNIFER M. ARO, 0000
TERRY L. BAGLEY, 0000
BRUCE K. BAKER, 0000
LUIS BALBUENA, JR., 0000
KRISTEN C. BARNER, 0000
ROSS BARNER, 0000
KEITH J. BAUGH, 0000
DEBORAH A. BAUMANN, 0000
HOWELL I. BEARD, 0000
SARAH W. BECHTA, 0000
PHILLIP J. BECKER, 0000
BRUCE C. BEGIA, 0000
MICHAEL J. BEHNEN, 0000
MELINDA L. BEHRENS, 0000
CLYDE H. BELGRAVE, 0000
JAMES S. BEMBRY, 0000
PATRICK J. BENNETT, 0000
LOUIS W. BENTON, 0000
BERNARD M. BETTENCOURT, 0000
CLINTON S. BEVERLY, 0000
WILLIAM D. BOAM, 0000
ROBERT A. BOMBARD, 0000
WARREN K. BONNEY, 0000
SETH A. BORQUAYE, 0000
MARY J. BORSES, 0000
JOSEPH M. BOURDON, 0000
FRED H. BRENNAN, JR., 0000
CHRISTOPHER M. BRIAN, 0000
ROBERT S. BRIDWELL, 0000
MICHAEL B. BROOKS, 0000
ROSS A. BRUNETTI, 0000
BART J. BRUNS, 0000
CARL L. BUISING, 0000
NORI P. BUISING, 0000
RICHARD C. BUTLER, 0000
THOMAS R. BYRNES, JR., 0000
REX B. CABALTICA, 0000
CHRISTOPHER L. CAGGIANO, 0000
EARL J. CAMPBELL, 0000
CHRISTOPHER P. CANNON, 0000
SANDRA L. CARTER, 0000
RICHARD L. CATALAN, 0000
JEFFREY G. CHAFFIN, 0000
JOSEPH J. CHANG, 0000
AMY P. CHEN, 0000
CATHERINE W. CHEUNG, 0000
MICHAEL K. CHINN, 0000
FRANCIS M. CHIRICOSTA, 0000
MICHAEL J. CHRIST, 0000
ANDREW D. CHUNG, 0000
MATHEW H. CHUNG, 0000
CYNTHIA L. CLAGETT, 0000
KATHRYN L. CLARK, 0000
NANCY J. CLAY, 0000
TERESA A. COLEMAN, 0000
TIMOTHY J. COLLINS, 0000
WILLIAM C. CONNER, 0000
PAUL M. CONSLATO, 0000
SHARON S. CONSLATO, 0000
PATRICK J. CONTINO, 0000
MARICELA CONTRERAS, 0000
VENNIS D. COSBY, 0000
JOHN W. COURSEY, 0000
MARK H. CROLEY, 0000
CHRISTOPHER L. CROWDUS, 0000
WILLIAM J. CRUSE, 0000
MARY B. CRUSER, 0000
VICTOR J. DADDIO, 0000
LEONARD E. DEAL, 0000
DAVID A. DEAN, 0000
JOSEPH S. DEGAETANO, 0000
JOSE C. DEHOYOS, 0000
GEORGIA G. DELACRUZ, 0000
LEMWEL G. DELGRA, 0000
MARY-ELIZABETH G. DELMONTE, 0000
STEPHEN M. DENTLER, 0000
THEODORE S. DERSE, 0000
KIMBERLY A. DEVER, 0000
DIANE DEVITA, 0000
KEVIN D. DEWEBER, 0000
PHILIP A. DINAUER, 0000
MARIE A. DOMINGUEZ, 0000
KEVIN M. DOYLE, 0000
MICHAEL E. DOYLE, 0000
SMITH C. DRIVDAHL, 0000
DANIEL L. DROTTS, 0000
MARTIN S. DUBRAVEC, 0000
CHRISTOPHER J. DUGGINS, 0000
NORMAN M. DY, 0000
JOHN M. EDAVETTAL, 0000
CHARLES C. EGBERT, 0000
JULIUS R. ELLIS, 0000
ETHAN E. EMMONS, 0000
WILLIAM B. EVANS, 0000
CRAIG M. EYMAN, 0000
JOHN J. FAILLACE, 0000
ANITA M. FAST, 0000
JEFFREY A. FAULKNER, 0000
CYDNEY L. FENTON, 0000
GREG E. FIHN, 0000
ROBERT L. FLEMING, 0000
JORGE E. FOIANINI, 0000
DIMITRY A. FOMIN, 0000
MICHAEL G. FOX, 0000
GREGORY J. FRANE, 0000
JOHN T. FRIEDLAND, 0000
MICHAEL S. FRIEDMAN, 0000
ROBERT A. FROLICHSTEIN, 0000
MARK M. FUKUDA, 0000
WAYNE A. FULLER, 0000
FRANK J. GAFFNEY, 0000
MARYANNE GAFFNEY, 0000
ALFREDO GARCIA, 0000
JON A. GARRAMONE, 0000
BYRON D. GATLIN, 0000
STEPHEN L. GEORGE, 0000
BRUCE N. GIBBON, 0000
MARK C. GIBBONS, 0000
JOHN F. GILLMAN, 0000
MATTHEW D. GILMAN, 0000
RONALD P. GIOMETTI, JR, 0000
PAULINO E. GOCO, 0000
PAUL E. GOURLEY, 0000
BLAKE D. GRAHAM, 0000
SHAWN P. GRANGER, 0000
ROBERT J. GRAY, 0000
DAVID R. GREATOREX, 0000
STEVEN M. GROSSO, 0000
PETER H. GUEVARA, 0000
IV T. GUY, 0000
MICHAEL K. HALLIDAY, 0000
SCOTT R. HAMBLIN, 0000
THOMAS J. HAMMER, 0000
VINCENT M. HAN, 0000
MICHAEL T. HANDRIGAN, 0000
ANDREW C. HANNAPEL, 0000
DOUGLAS M. HARPER, 0000
JEFFERY K. HARPSTRITE, 0000
BRIAN K. HARRIS, 0000
DONNA M. HARRISON, 0000
TIMOTHY P. HART, 0000
ERIC I. HASSID, 0000
SUSAN L. HAWN, 0000
WILLIAM B. HENGHOLD I 0000
MICHAEL D. HERNDON, 0000
ROBERT W. HEROLD, 0000
ANTHONY D. HIRTZ, 0000
ANA C. HODGES, 0000
KIM C. HOELDTKE, 0000
JOSEPH R. HOFFMAN, 0000
RANDALL G. HOFFMAN, 0000
JEFFREY A. HOOKE, 0000
MATTHEW P. HORTON, 0000
JOHN D. HORWHAT, 0000
JAMES W. HOWARD, 0000
JAMES M. HOWELL III 0000
THOMAS G. HUGHES, 0000
KIMBERLY J. HUMULOCK, 0000
JOHN P. HUSAK, 0000
ALLEN T. JACKSON, 0000
STEPHEN C. JACOB, 0000
LUKE S. JANOWIAK, 0000
MATTHEW B. JENNINGS, 0000
NIEL A. JOHNSON, 0000
SCOTT J. JOHNSON, 0000
DEREK J. JUE, 0000
ANDREW D. JUNG, 0000
SCOTT M. KAMBISS, 0000
STEVEN F. KATOR, 0000
GEORGE C. KEOUGH, 0000
LEO W. KESTING, 0000
BETTY S. KIM, 0000
HOON KIM, 0000
TIMOTHY L. KINZIE, 0000
MICHAEL E. KIRK, 0000
JORGE O. KLAJNBART, 0000
ROBERT P. KNETSCHE, 0000
SARAH R. KOHN, 0000
DAVID E. KOON, JR., 0000
RAYMOND, KOSTROMIN, 0000
ANDREW G. KOWAL, 0000
MICHELLE B. KRAVITZ, 0000
PAUL J. KUZMA, 0000
MICHAEL D. KWAN, 0000
DANIEL E. LAEUPPLE, 0000
RAMACHANDRA J. LAHORI, 0000
EDWARD E. LANCASTER, 0000
JONATHAN E. LANE, 0000
DEBORAH S. LASLEY, 0000
ROBERT K. LATHER, 0000
REYNOLDS C. LAVIERI, 0000
RICHARD A. LAWS, 0000
JEFFREY A. LAWSON, 0000
GREGORY Y. LEE, 0000
KENNETH D. LEE, 0000
PAUL J. LEE, 0000
STEPHEN C. LEE, 0000
SUNMEE LEE, 0000
MARK W. LEFLER, 0000
JONATHAN G. LEONG, 0000
BRET N. LESUEUR, 0000
RORY H. LEWIS, 0000
JOHN A. LINFOOT, JR. 0000
BRET W. LOGAN, 0000
STEPHEN J. LOOS, 0000
KERN S. LOW, 0000
ROBERT H. LUTZ, 0000
ARTHUR G. LYONS, 0000
STEVEN A. MAGOLINE, 0000
DAVID V. MALAVE, 0000
JANICE Y. MALDONADO, 0000
MARCOS E. MALDONADO, 0000
KENDELL L. MANN, 0000
TIMOTHY J. MANOWN, 0000
BARRY D. MARTIN, 0000
MATTHEW M. MCCAMBRIDGE, 0000
RICHARD B. MCCLAIN, 0000
ROBERT C. MCCLELLAND, 0000
ROBERT T. MCCLELLAND, 0000
CRAIG E. MCCOY, 0000
DAVID E. MCCUNE, 0000
LUISA G. MCELROY, 0000
MARK A. MCGRAIL, 0000
TIMOTHY P. MCHENRY, 0000
JOHN G. MCMANUS, JR. 0000
KATHLEEN MCNALLY, 0000
AMANDA M. MCSWEENEY, 0000
RAMON E. MELENDEZ, 0000
BARBARA A. MELENDEZ, 0000
ALICIA R. MERCER, 0000
GLEN J. MESAROS, 0000
CHRISTINE M. METZ, 0000
SCOTT J. MEYER, 0000
RICHARD J. MILES, 0000
JOHN S. MILIZIANO, 0000
GEORGE M. MILLER, JR. 0000
KEITH C. MILLER, 0000
MICHAEL A. MILLER, 0000
MATTHEW B. MILLS, 0000
GREGORY T. MILROY, 0000
AUDREY D. MITCHELL, 0000
KATHERINE M. MIZELLE, 0000
MICHAEL C. MOORE, 0000
RALPH D. MOZINGO, 0000
KELLY A. MURRAY, 0000
ANNE L. NACLERIO, 0000
GRANT K. NAKASHIMA, 0000
JOHN E. NEEDHAM, 0000
EDWARD A. NELSON, 0000
MARK L. NELSON, 0000
JOHN C. NICKELL, 0000
TODD E. NIELSEN, 0000
JOEL B. NILSSON, 0000
SUSAN NOE, 0000
SHON P. NOLIN, 0000
KEVIN C. OCONNOR, 0000
DAVID P. ODONNELL, 0000
ROBERT G. OLDROYD, 0000
HOLLY L. OLSON, 0000
ERIC J. ORMSETH, 0000
KEVIN J. OSHEA, 0000
NICOLE M. OWENS, 0000
HYEKYUNG H. PAE, 0000
GEN B. PAEK, 0000
JOHN M. PALMER, 0000
SANDRO B. PARISI, 0000
RICHARD T. PASSEY, 0000
JOHN F. PAYNE, 0000
BRAD A. PENDELL, 0000
DAVID C. PETERS, 0000
JONATHAN B. PETERSON, 0000
STEFAN M. PETTINE, 0000
MARK E. POLHEMUS, 0000
JEFFERY S. PORTER, 0000
JOHN R. PRAHINSKI, 0000
XIOMARA I. PUCKERIN, 0000
JOHN S. PUJALS, 0000
BRET K. PURCELL, 0000
JAMES E. RAGAN, 0000
DANIEL C. RANDALL, 0000
THOMAS F. RAPACKI, 0000
ELIZABETH M. RAQUET, 0000
REX A. RAWLS, 0000
MARK T. REED, 0000
MARK L. REEDER, 0000

DANA K. RENTA, 0000
MATTHEW S. RETTKE, 0000
LISVETTE RIVERAMALAVE, 0000
MICHAEL L. ROBERTS, 0000
JUSTIN D. ROBY, 0000
WILBER R. ROESE, 0000
MARYJO K. ROHRER, 0000
DANIEL S. ROY, 0000
DANIEL G. RUDOLPH, 0000
ROBERT S. RUDOLPHI, 0000
JEFFREY S. SAENGER, 0000
STEWART M. SAMUEL, 0000
HELEN K. SAVA, 0000
TIMOTHY E. SAWYER, 0000
MICHAEL J. SCHIFANO, 0000
THOMAS K. SCHREIBER, 0000
RANDY C. SEXTON, 0000
RICHARD P. SHEA, JR., 0000
JOLENE SHUMAN, 0000
STEVEN D. SIDES, 0000
DAVID A. SIEGEL, 0000
MARSHAL A. SILVERMAN, 0000
DANIEL E. SIMPSON, 0000
MICHAEL H. SMYTH, 0000
APRIL M. SNYDER, 0000
JACK J. SOBRIN, 0000
DOUGLAS R. SOMMERS, 0000
DOUGLAS M. SORENSON, 0000
JEFFREY R. SPINA, 0000
DAVID R. STANLEY, 0000
BENJAMIN W. STARNES, 0000
EUGENE E. STEC, 0000
ROBERT C. STELZLE, 0000
JOHN C. STITT, 0000
ROBERT D. STOFFEY, 0000
KELLY A. STUART, 0000
JEREMIAH STUBBS, 0000
ALICE M. STUTZMAN, 0000
RICHARD D. STUTZMAN, 0000
STEPHEN A. SUK, 0000
JAY SYNN, 0000
SHRIKANT K. TAMHANE, 0000
PAUL A. TAPIA, JR., 0000
ALFRED J. TERP, 0000
GREGORY P. THIBAULT, 0000
JAMES S. THOMPSON, 0000
JENNIFER C. THOMPSON, 0000
STACY L. THORNTON, 0000
NATHAN TILLOTSON, 0000
MICHAEL L. TITZER, 0000
ALFREDO B. TIU, 0000
JEANNE K. TOFFERI, 0000
GLORIA T. TORRES, 0000
CHRISTOPHER D. TUMPKIN, 0000
JAMES TURONIS, 0000
ERWINA Q. UNGOS, 0000
IRA D. URETZKY, 0000
PETER M. VANDERMEID, 0000
JON K. VANVALKENBURG, 0000
MARGARET A. VIZGIRDA, 0000
ANDREW A. VORIES, 0000
JAMES S. WADDING, 0000
CHRISTOPHER G. WALSH, 0000
OTIS S. WARR IV, 0000
JAMIE K. WASELENKO, 0000
JOEL C. WEBB, 0000
ROBERT L. WEEKS, 0000
TRACEY E. WEIR, 0000
CHRISTOPHER T. WELSCH, 0000
DAVID J. WILKIE, 0000
NEAL W. WILKINSON, 0000
BEN D. WILLIAMS, 0000
BRADFORD J. WILLIAMS, 0000
CLARK H. WILLIS, 0000
JEFFREY J. WILLIS, 0000
CHRISTOPHER J. WILSON, 0000
WILLIAM T. WINSLOW, 0000
CLAGETT A. WOLFE, JR., 0000
PETER W. WONG, 0000
FRANKLIN H. WOOD, 0000
JOSEPH C. WOOD, 0000
VIRGINIA D. YATES, 0000
LISA L. YEARWOOD, 0000
CAROL R. YOUNG, JR., 0000
JOAN H. ZELLER, 0000